

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

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FILE: B-216501.2

DATE: December 6, 1984

MATTER OF: California Aero Dynamics  
Corporation--Request for Reconsideration**DIGEST:**

Untimely protest will not be considered under significant issue exception to our timeliness rules because issue is one that we have previously considered.

California Aero Dynamics Corporation (CADC) requests reconsideration of our decision in California Aero Dynamics Corporation, B-216501, Oct. 19, 1984, 84-2 C.P.D. ¶ \_\_\_\_\_. We dismissed as untimely CADC's protest that the solicitation of best and final offers under request for proposals No. F09603-84-R-0425, issued by Robins Air Force Base (Air Force), Georgia, was improper because it stated that progress payments would not be allowed until after first article approval. CADC contends that the protest should be considered under our significant issue exception, 4 C.F.R. § 21.2(c) (1984).

CADC essentially argues that the Air Force does not have the discretion to withhold progress payments until first article approval, citing Federal Acquisition Regulation §§ 32.105, 32.106, 32.107 and 32.502-1, 48 Fed. Reg. 42,102, 42,171 (1983) (to be codified at 48 C.F.R. §§ 32.105, 32.106, 32.107 and 32.502-1).

We do not consider this issue to be significant within the meaning of 4 C.F.R. § 21.2(c). The significant issue exception, which is exercised sparingly so that our timeliness rules do not become meaningless, is limited to issues of widespread interest to the procurement community, which have not been considered on the merits in our previous decisions. Western States Management Services, Inc.--Request for Reconsideration, B-214427.2, Apr. 17, 1984, 84-1 C.P.D. ¶ 437.

Although CADC indicates that it was unable to find precedent in this area, we held that under the then applicable regulations, the discretion to determine whether or not provisions for progress payments are to be included

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in invitations rests with the contracting officer. 45 Comp. Gen. 809 (1966). Since the current regulations cited by CADC are to the same effect, we believe that the contracting officer has the same discretion to determine when and under what terms progress payments will or will not be included in an invitation. Therefore, we find that the protest does not warrant review under our significant issue exception.

Our prior decision is affirmed.

  
Acting Comptroller General  
of the United States