

DECISION



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

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FILE:

B-218132.2

DATE: March 6, 1985

MATTER OF: Knox Manufacturing Co.--Request for
Reconsideration

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DIGEST:

GAO will not consider the merits of an untimely protest nor invoke "significant issues" or "good cause" exceptions to timeliness requirements where the untimely protest does not raise issues of first impression which would have widespread significance to the procurement community and no compelling reason beyond protester's control prevented timely filing.

Knox Manufacturing Co. (Knox) requests reconsideration of our decision in Knox Manufacturing Co., B-217550, Jan. 24, 1985, 85-1 C.P.D. ¶ _____, ruling untimely Knox's protest in connection with General Services Administration (GSA) solicitation No. FGE-B2-75297-N.

We deny the reconsideration request.

Although Knox was advised of the rejection of its offer as late by GSA on October 18, 1984, its protest was not filed (i.e., received) with our Office until January 10, 1985. Section 21.2(b)(2) of our Bid Protest Procedures, 4 C.F.R. part 21 (1984), applicable to this protest, requires protests to be filed with our Office not later than 10 working days after the basis for protest is known or should have been known. Because Knox was on constructive notice of our Bid Protest Procedures published in the Federal Register and the Code of Federal Regulations, we dismissed Knox's protest as untimely.

Knox now declares that it was not until late December 1984 that it was able to clearly determine that "an incorrect address was provided in the solicitation"; that "the individual signing for the offer was a GSA employee"; and its offer "was received late due to government error and mishandling." Knox argues that a waiver of our timeliness rules in its favor is a "fair and reasonable request."

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Our Bid Protest Procedures set precise time limits for filing bid protests to enable this Office to decide an issue while corrective action is possible. To maintain the integrity of our bid protest timeliness rules, we have decided that we will consider the merits of a bid protest not filed within the precise timeframe required only for good cause shown, or where the protest raises an issue significant to procurement practice or procedures. 4 C.F.R. § 21.2(c). Under the significant issue exception, however, we will only consider untimely protests when the issue or issues raised are of widespread significance to the procurement community and have not been previously considered. Kearflex Engineering Company, B-212537, Feb. 22, 1984, 84-1 C.P.D. ¶ 214. In order to prevent the timeliness requirements from becoming meaningless, this exception is strictly construed and seldom used. Detroit Broach and Machine, B-213643, Jan. 5, 1984, 84-1 C.P.D. ¶ 55. The issues raised by Knox are not issues of first impression nor do they involve questions whose resolution would benefit parties other than Knox. The good cause exception is limited to circumstances where some compelling reason beyond the protester's control prevents the timely filing of a protest. Ensign Aircraft Company, B-207898.3, Apr. 1, 1983, 83-1 C.P.D. ¶ 340. That is not the case here. Accordingly, the protest does not fall within either exception to our timeliness requirements.

While Knox now indicates that it was not able to determine clearly certain facts relative to its protest until late December 1984, the record shows that GSA rejected Knox's late bid and indicated the reason for rejection by letter of October 18, 1984. Protesters have a duty to diligently pursue information which forms the basis of their protests within a reasonable time. Richard M. Milburn High School for Adults, Inc., B-214528, July 2, 1984, 84-2 C.P.D. ¶ 5. Since nothing in the record reveals any attempt by Knox to obtain information showing the bases for protest between receipt of the October 18, 1984, letter of rejection and the January 10, 1985, filing of the protest in our Office--a period of more than 2 months--we find that Knox did not diligently pursue such information. See National Systems Management Corporation, B-198811, Oct. 10, 1980, 80-2 C.P.D. ¶ 268, and cases cited therein.

Knox's request for reconsideration is denied.

Harry R. Van Cleve
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General Counsel