

LUCKESMAN
PL-II

DECISION



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

FILE: B-221070.2 **DATE:** December 16, 1985
MATTER OF: SGS Construction Company

DIGEST:

Information available to show a protest is timely must be submitted at the time of the initial protest and not with a request for reconsideration of the dismissal of the initial protest.

SGS Construction Company requests that we reconsider our November 14, 1985 dismissal of its initial protest filed on November 14, 1985. SGS protested the rejection of its bid as nonresponsive under Department of Transportation solicitation No. DTF71-85-B-00044. We dismissed the protest as untimely because it was not filed within 10 working days of the date the basis for protest was known or should have been known as required by our Bid Protest Regulations, 4 C.F.R. § 21.1(a)(2) (1985). SGS now contends that its protest was timely because it orally protested to the agency on October 28, the date of its receipt of the letter of rejection from the agency, and that it protested to this Office prior to the resolution of the agency level protest.

Our Office will reconsider a decision when the party asking us to do so specifies any errors of law made or information not previously considered. 4 C.F.R. § 21.12(a). Information not previously considered refers to information which was previously overlooked by our Office or information which the requester did not have access to when the initial protest was pending. Midwest Holding Corporation-- Request for Reconsideration, B-220476.2, Oct. 23, 1985, 85-2 CPD ¶ 451.

We based our dismissal on the following language in the initial protest telegram:

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". . . SGS Construction Company has been rejected as nonresponsive improper bid bond individual surety standard form 28 improperly filled out reference letter of . . . division engineer dated October 23, 1985"

Protesters have the obligation to furnish, at the time they initially protest to us, all relevant information bearing on the timeliness of the protest. See Global Crane Institute-Request for Reconsideration, B-218120.2, May 28, 1985, 85-1 CPD ¶ 606. In that case, we affirmed our dismissal of a protest as untimely because the protester did not advise us, until it requested reconsideration, that it previously had filed a timely protest with the contracting agency; had that information been provided in the protest initially, we would have viewed the protest as timely. In affirming the dismissal, we pointed out that in view of the statutory requirements for prompt resolution of protests imposed by the Competition in Contracting Act of 1984, 31 U.S.C.A. § 3554(a)(1) (West Supp. 1985), it generally would be inappropriate for us to later consider information that the protester could have presented initially.

SGS obviously knew of its agency level protest when it filed its initial protest, but did not advise us of that fact. Thus, on its face, the initial protest was untimely. Under these circumstances, we will not consider the protest on its merits. Midwest Holding Corporation--Request for Reconsideration, supra.

The prior dismissal is affirmed.

Harry R. Van Cleve
Harry R. Van Cleve
General Counsel