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DECISION



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

FILE: B-224383

DATE: July 7, 1986

MATTER OF: Astrophysics Research Corporation

DIGEST:

1. Protest alleging that agency improperly rejected late offer is dismissed as untimely when filed approximately 2 months after the protester received notice of initial adverse action on a protest filed first with the contracting agency.
2. Protester's assertion that it was unaware of timeliness rules does not provide a basis for considering an untimely protest since the protester is charged with constructive notice of Bid Protest Regulations through their publication in the Federal Register.
3. Untimely protest will not be considered by invoking "significant issue" exception to timeliness rules where the protest does not raise issue of first impression which would have widespread interest to the procurement community.

Astrophysics Research Corporation protests the rejection of its offer under solicitation No. BO/FS-D-00637 issued by the General Services Administration (GSA) for security X-ray screening equipment. Astrophysics' offer was rejected by GSA because it was received after the closing date for receipt of proposals.

We dismiss the protest.

GSA advised Astrophysics on March 19, 1986 that its offer had been received late and would not be considered absent evidence of mailing by certified or registered mail not later than the fifth calendar day before the February 25 closing date for receipt of offers. In a letter to GSA dated March 19, Astrophysics requested the agency to review and reverse its decision. Astrophysics indicated that it had sent GSA corrections to its offer and although

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the offer was received late, the corrected pages were received by GSA prior to the closing date for receipt of offers. Astrophysics argued that the corrected pages, together with the cover letter submitted, were sufficient to be considered an acceptable offer.

GSA reviewed the matter and on April 8, again advised Astrophysics that its late offer would not be considered. GSA also indicated that the corrected pages were not by themselves sufficient to constitute an acceptable offer. Astrophysics' protest of this determination was not filed with our Office until June 25.

Under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(3) (1986), a protest must be filed within 10 working days after notice of initial adverse action on a protest initially filed with the contracting agency. Astrophysics' March 19 letter clearly constituted a protest to GSA. Astrophysics therefore was required to protest to this Office within 10 working days after receiving GSA's April 8 letter stating that the offer would not be considered. Since Astrophysics did not protest to our Office until June 25, its protest is untimely and will not be considered. Systematics, Inc., B-220390.3, Mar. 6, 1986, 86-1 CPD ¶ 222.

Astrophysics argues that GSA did not advise it of any time limitations on its right to appeal GSA's decision to our Office, and that its protest was filed in a timely manner after Astrophysics obtained a copy of our regulations. Also, Astrophysics contends that the protest raises a significant procurement issue because there are certain critical government needs which may not be met if Astrophysics is precluded from competing for this contract.

Astrophysics' allegation that it was not advised of our timeliness rules does not excuse the untimeliness of the protest. Our regulations are published in the Federal Register and, therefore, protesters are charged with constructive notice of their contents. International Shelter Sys., Inc.--Request for Reconsideration, B-221563.2, May 27, 1986, 86-1 CPD ¶ 295. A protester's professed unawareness of these published regulations is not a proper basis for waiving their requirements. Agha Constr.--Reconsideration, B-218741.3, June 10, 1985, 85-1 CPD ¶ 662.

Bid protests are serious matters which require effective and equitable procedural standards, both so that parties have a fair opportunity to present their cases and so that protests can be resolved in an expeditious manner. Cal. Shorthand Reporting--Request for Reconsideration, B-221173.2, Feb. 18, 1986, 86-1 CPD ¶ 170. Our regulations are intended to provide for the expeditious consideration of protests without unduly disrupting the government's procurement process. To waive our timeliness requirements for the protester's sole benefit would be inconsistent with their purpose. Hartridge Equip. Corp.--Request for Reconsideration, B-219982.2, Oct. 17, 1985, 85-2 CPD ¶ 418.

With respect to Astrophysics' assertion that its protest raises a significant issue, we note that the significant issue exception to our timeliness rules is used sparingly, and is limited to issues of widespread importance to the procurement community that we have not considered on the merits in our previous decisions. Griffin Galbraith, B-218933, Sept. 19, 1985, 64 Comp. Gen. _____, 85-2 CPD ¶ 307. Astrophysics' protest does not fall within this exception. We have issued numerous decisions in which we considered whether the procuring agency acted properly in rejecting a late offer. See International Assoc. of Fire Fighters, B-220757, Jan. 13, 1986, 86-1 CPD ¶ 31; Acoman Indus., Inc., B-221442, Jan. 7, 1986, 86-1 CPD ¶ 13. Thus, while we recognize the importance of the matter to the protester, we do not consider the issue significant as that term is used in our regulations.

Astrophysics also has requested a conference to discuss the merits of its protest. Where the merits of the protest are not for consideration, we believe that no useful purpose would be served by holding a conference. Logus Mfr. Corp., B-216775, Jan. 8, 1985, 85-1 CPD ¶ 25.

The protest is dismissed.



for Ronald Berger
Deputy Associate
General Counsel