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The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Engineered Air Systems, Inc.--Request for
Reconsideration
File: B-224269.2
Date: October 28, 1986

DIGEST

General Accounting Office will not consider the merits of an untimely protest by invoking "significant issue" exception to timeliness requirements where untimely protest does not raise issue of first impression which would have widespread significance to the procurement community.

DECISION

Engineered Air Systems, Inc. (EASI) requests that we reconsider our dismissal of its protest against invitation for bids (IFB) No. M00027-86-B-0038, issued by Headquarters, U.S. Marine Corps (Marine Corps), for mobile electric power distribution systems and associated data. We affirm our dismissal.

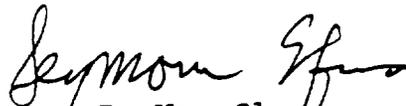
EASI protested that the Marine Corps could not properly evaluate bids because the solicitation did not contain a Buy American-Balance of Payments Program Certificate, although it did incorporate the Buy American Act and Balance of Payments Program Clause, as contained in Department of Defense Federal Acquisition Regulation Supplement, 48 C.F.R. § 252.225-7001 (1985). We dismissed the protest of this alleged solicitation defect as untimely because it was not filed before bid opening, as required by our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1986).

In its request for reconsideration, EASI argues that we should consider its protest pursuant to the exception in our timeliness rules for a protest that raises a significant issue. See 4 C.F.R. § 21.2(c). This exception is strictly construed and sparingly used to prevent the rules from being rendered meaningless. We will invoke it only if the subject of the protest concerns a matter of widespread interest to the procurement community and involves a matter that has not

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been considered on the merits in prior decisions of our Office. Shaw Aero Development, Inc.--Request for Reconsideration, B-221980.2, May 28, 1986, 86-1 C.P.D. ¶ 495. Since we have previously considered how to evaluate bids when the Buy American Act certification has not been completed, which we believe would be to the same effect where it is not included in the solicitation, we will not invoke the exception here. Airpro Equipment Inc., B-209612, Jan. 31, 1983, 83-1 C.P.D. ¶ 105.

The dismissal is affirmed.

for 
Harry R. Van Cleve
General Counsel