



Lebowitz

## Decision

**Matter of:** Perdomo & Sons, Inc.--Reconsideration

**File:** B-234614.2

**Date:** May 5, 1989

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### DIGEST

An untimely protest will not be considered under the significant issue exception to the bid protest timeliness requirements where the issue raised is not of widespread interest to the procurement community or a matter of first impression.

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### DECISION

Perdomo & Sons, Inc., requests that we reconsider our decision in Perdomo & Sons, Inc., B-234614, Apr. 3, 1989, 89-1 CPD ¶ \_\_\_\_\_, in which we dismissed as untimely Perdomo's protest that the Veterans Administration (VA) (now the Department of Veterans Affairs) acted improperly by failing to set aside for exclusive small business participation solicitation No. 619-72-89, issued for refuse service at the VA Medical Center in West Los Angeles, California.

We affirm the decision.

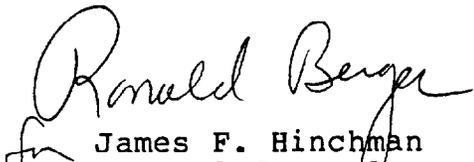
The VA initially issued solicitation No. 691-53-89 as a small business set-aside. Although Perdomo submitted the only timely bid at bid opening, the VA rejected its bid as excessively priced, and canceled the solicitation. Subsequently, after withdrawing the procurement from the small business set-aside program, the VA issued solicitation No. 691-72-89 on an unrestricted basis with bid opening scheduled for February 23, 1989. Perdomo hand-delivered its bid to the VA on February 23. By letter dated February 23, and received by our Office on February 24, Perdomo filed a protest, essentially alleging that the VA acted improperly by failing to set aside the procurement for exclusive small business participation. We dismissed Perdomo's protest because it was based upon an alleged impropriety apparent from the face of the solicitation, and was not filed prior to bid opening as required by our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1988).

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In its request for reconsideration, Perdomo reiterates its original protest argument, states that for business reasons it decided to deliver its bid to the VA and mail its protest to our Office on the day of bid opening so that the VA would be unable to disclose its prices to other bidders, and requests that we consider its protest pursuant to the exception in our timeliness rules for a protest that raises a significant issue. 4 C.F.R. § 21.2(b).

The significant issue exception is strictly construed and sparingly used to prevent the timeliness rules from being rendered meaningless. We will invoke it only if consideration of the protest "would be in the interest of the procurement system." Hunter Environmental Services, Inc., B-232359, Sept. 15, 1988, 88-2 CPD ¶ 251. In the typical case, we make this determination by looking at whether the subject of the protest concerns a matter of widespread interest to the procurement community or involves a matter that has not been considered on the merits in a prior decision. See, e.g., Christoph's Research and Design Systems, Inc., B-232966, Dec. 12, 1988, 88-2 CPD ¶ 585. Perdomo's protest does not meet this standard. Therefore, we will not consider Perdomo's protest under the significant issue exception to our timeliness rules.

The prior decision is affirmed.

  
James F. Hinchman  
General Counsel