



Comptroller General
of the United States

Washington, D.C. 20548

Calhoun
145747

Decision

Matter of: Industrial Acoustics Company, Inc.--
Reconsideration

File: B-246260.2

Date: January 28, 1992

Ellis E. Singer for the protester,
Tania Calhoun, and Andrew T. Pogany, Esq., Office of the
General Counsel, GAO, participated in the preparation of the
decision.

DIGEST

Request for reconsideration is denied where protest was
untimely and protester has made no showing entitling it to
an exception to our timeliness rules.

DECISION

Industrial Acoustics Company, Inc. (IAC) requests that we
reconsider our October 28, 1991, dismissal of its protest of
the award of a contract to Acoustic Systems under
solicitation No. DAKF15-91-B-1127, issued by the Department
of the Army for provision and installation of audiometric
booths at various military entrance processing stations.

By letter received in our Office on October 15, IAC
protested that the Army improperly rejected as nonresponsive
the bid IAC submitted in response to the solicitation,
subsequently making award to another firm. The Army's
grounds for rejection of IAC's bid were IAC's failure to
acknowledge receipt of amendments to the solicitation and
IAC's submission of a lump sum bid instead of the required
complete price breakdown. IAC received notice of the Army's
rejection of its bid on September 16, and filed an agency-
level protest on September 19. On September 23, IAC was
notified that a contract for the solicitation had been
awarded.

When a protest is filed initially with the contracting
agency, any subsequent protest to our Office must be
received within 10 working days of the protester's notice of
the initial adverse agency action. 4 C.F.R. § 21.2(a)(3)
(1991). Award of a contract is considered adverse agency
action. A protest is considered filed when it is received
by our Office. 4 C.F.R. § 21.0(g). We dismissed IAC's
protest as untimely because we did not receive it until

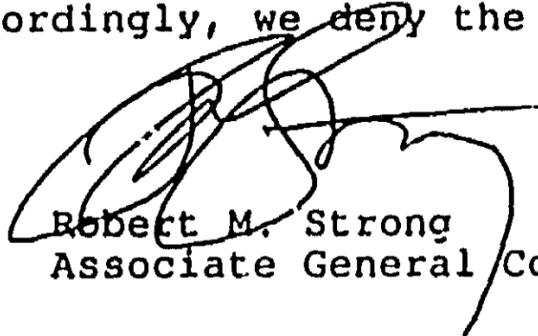
October 15, more than 10 working days after IAC was aware that a contract had been awarded.

In its request for reconsideration, the protester does not dispute our finding that its protest was untimely. Instead, it requests that we consider its protest under the exceptions to our timeliness rules.

Our timeliness rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without disrupting or delaying the procurement process. National Gen. Supply, Inc.--Recon., B-239647.2, July 6, 1990, 90-2 CPD ¶ 102. In order to prevent these rules from becoming meaningless, exceptions are strictly construed and rarely used. The only exceptions to the timeliness requirements are where there was good cause for the untimely filing (some compelling reason beyond the protester's control prevented the protester from filing a timely protest) or a significant issue (one of widespread interest to the procurement community or one that has not been considered before) is involved. See 56 Fed. Reg. 3759 (1991) (to be codified at 4 C.F.R. § 21.2(c)); Dyncorp, 70 Comp. Gen. 38 (1990), 90-2 CPD ¶ 310.

As stated above, IAC in its reconsideration request does not dispute our conclusion that its protest to our Office was untimely. It also has offered no explanation as to why it failed to protest the rejection of its bid within 10 working days of the September 23 notification. Thus, the protester provides no compelling reason beyond its control which prevented it from timely filing its protest. Further, while we recognize the importance of the matter to the protester, we do not think the protest raises a significant issue--it does not involve issues which are of widespread interest to the procurement community.

Accordingly, we deny the request for reconsideration.


Robert M. Strong
Associate General Counsel