

B. Anglin
Proc II

DECISION



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

66940

FILE: B-189837

DATE: December 23, 1977

MATTER OF: R & O Industries, Inc.

DIGEST:

Untimely protest questioning propriety of agency's consideration of hand tool manufactured of steel mined in United States as foreign, for purposes of applying evaluation factor under Buy American Act, does not raise issue significant to procurement practice. Protester's asserted lack of knowledge of filing requirements is not good cause for consideration of untimely protest under exception at 4 C.F.R. § 20.2(c).

R & O Industries, Inc. protests award to a bidder other than itself under General Services Administration (GSA) solicitation FTAN-G6-95138-A-4-5-77, for non-powered hand tools. The gravamen of the protester's complaint is that its offer was improperly evaluated as foreign for purposes of the Buy American Act. Although counsel for the protester concedes that the protest was not timely filed, he suggests that it should be considered under the exceptions to our bid protest procedures in 4 C.F.R. § 20.2(c).

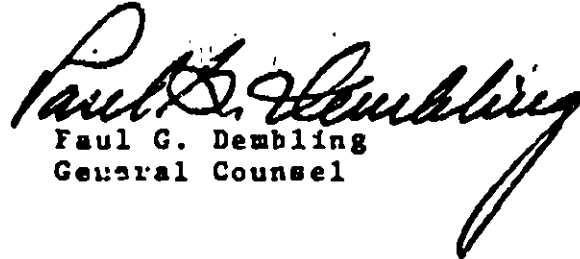
That rule provides that an untimely protest may be considered if it raises a question significant to procurement practices or procedures, or for good cause shown. The protester states that its bid for one of the hand tools to be procured should not have been rejected because more than half the cost of the item is for steel which was mined in the United States. In this connection, the protester is unable to find any "decided case concerned with raw material which is mined in the United States, processed in a foreign country, and then finished domestically for purposes of the Buy American Act." Moreover, counsel believes that our timeliness rules impose an unfair burden on a first time protester unfamiliar with our published rules and regulations.

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Assuming, as protester alleges, that more than half the cost of producing the item is attributable to the cost of steel mined in the United States, we cannot say that this fact necessarily is a significant consideration in applying the Buy American Act to manufactured end products. Cf. Federal Procurement Regulations § 1-6.104-5.

Further, we have held that "good cause" as referred to in 4 C.F.R. § 20.2(c) refers to some compelling reason beyond the protester's control which prevented it from filing a timely protest. International Comptaprint Corp., B-186948, October 28, 1976, 76-2 CPT 357. We are unaware of any such circumstances in this instance.

Accordingly, R & O's protest is dismissed.


Paul G. Dembling
General Counsel