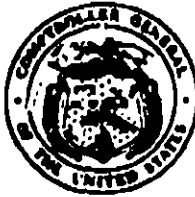


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DECISION



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

FILE: B-187958

DATE: December 21, 1976

MATTER OF: D.A. Cruciani and Frank A. Agnone

DIGEST:

1. Protest filed with GAO more than 10 working days after protesters' agent knew of basis for protest is untimely, since notice of grounds for protest to agent constituted notice to protesters.
2. Issues considered in previous decisions are not "significant" within the meaning of GAO Bid Protest Procedures which permit consideration of protest notwithstanding protest's untimeliness when significant issue is raised.

D.A. Cruciani, Jr. and Frank A. Agnone protest the October 22, 1976, award of Lease No. GS-C3-B-60073 to Stonehedge Limited Partner by the General Services Administration (GSA) for certain space in the Adams Plaza, Scranton, Pennsylvania, to be utilized by the Scranton Field Office of the Internal Revenue Service. The protesters, who own the space previously leased to GSA by their agent, Management Enterprises, Inc., complain that the lease awarded to Stonehedge will result in a considerably higher rental rate than that enjoyed by the Government under the prior lease and that the new lease was awarded without any effort to comply with competitive bidding or negotiation requirements.

The protest is untimely. The Bid Protest Procedures of this Office require that a protest such as this be filed with this Office within 10 working days after the basis of the protest is known or should have been known, 4 C.F.R. § 20.2(h)(2). Here the protest was filed some 6 weeks after the award of the lease. Although the protesters argue that their protest is timely because no formal notice of the lease award was given by GSA and they only recently discovered the grounds for protest, the protesters' own submission shows that they knew of the basis for protest at least by October 27, 1976. The submission includes a copy of an October 22, 1976, letter sent to the protesters by GSA terminating the existing lease, as well as a copy of an article concerning the award of the lease to Stonehedge which appeared in the October 27, 1976, edition of the Scranton Times. In that article a representative

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of Management Enterprises clearly refers to both the higher rental cost under the new lease and the lack of competitive bidding in connection with that lease. Since the protesters' agent obviously was aware of the grounds for protest on October 27, and since that notice to the agent also constituted notice to the protesters, see Restatement (Second) of Agency § 268 (1957), the protest filed here on December 3, 1976, is untimely and not for consideration on the merits.

The protesters also state that if their protest is untimely, it should still be considered because it presents a significant issue and therefore is appropriate for consideration under 4 C.F.R. § 20.2(c). We have held that this exception to our timeliness rules has reference to the presence of a principle of widespread procurement interest, 52 Comp. Gen. 20, 23 (1972); MD Associates, B-184564, September 24, 1975, 75-2 CPD 181, and must be invoked "sparingly if our timeliness standards are not to become meaningless." Catalytic, Incorporated, B-187444, November 23, 1975, 76-2 CPD ____; COMTEN, B-185394, February 24, 1976, 76-1 CPD 130, affirmed B-185394, May 18, 1976, 76-1 CPD 330. We have also indicated that where the merits of a protest involve issues which have been considered in previous decisions, such issues are not "significant" within the meaning of 4 C.F.R. § 20.2(c). See Delta Scientific Corporation, B-184401, August 3, 1976, 76-2 CPD 113. This Office has on many occasions enunciated its view on the requirement for competition. While the issue presented here is obviously an important one to protesters, we cannot conclude that it is "significant" under our Procedures.

In the light of the foregoing, the protest is dismissed.

for *Thilton Forster*
Paul G. Dembling
General Counsel