

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D.C. 20548

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FILE: B-213492.2**DATE:** December 20, 1983**MATTER OF:** H & W Industries, Inc.--Reconsideration**DIGEST:**

Request for reconsideration of GAO dismissal of protest as untimely is granted in part. Basis for dismissal was that protester had waited more than 10 days from contracting agency denial of initial protest to file protest with GAO. However, one issue of protest filed with contracting agency had not been denied by contracting agency at time all other issues were denied. Prior GAO decision is modified to reflect that dismissal of this protest issue as untimely was erroneous. However, the issue in question--whether awardee incorrectly certified in its bid that parts supplied would be manufactured in United States--is dismissed because such issue concerns whether awardee will meet contract obligation and is a matter of contract administration which we do not review.

H & W Industries, Inc. (H & W), requests reconsideration of our decision of November 22, 1983. (H & W Industries, Inc., B-213492, 83-2 CPD ____), wherein we dismissed its protest, under invitation for bids No. BVS/62-83/ARE, issued by the United States Agency for International Development (AID), as untimely. Our basis for finding H & W's protest untimely was that H & W had initially filed its protest with AID, but had waited more than 10 working days after AID had denied the initial protest to file the protest in our Office.

H & W points out that one of its bases for protest was not denied by AID at the time AID denied all of the other protest issues before it. The issue which H & W contends should not have been dismissed as untimely concerns H & W's charge that the awardee, CertainTeed, had incorrectly certified that the fittings it offered were of United States source and origin.

Upon review of the record, we conclude that H & W is correct and that we inadvertently overlooked this issue when

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reviewing the multitude of communications between H & W and AID which formed the basis of our prior decision. Accordingly, our November 22 decision is modified to reflect that this issue of protest should not have been dismissed as untimely.

The question of whether CertainTeed incorrectly certified that it would supply parts manufactured in the United States as required by the invitation will not be considered by our Office. The record shows that CertainTeed's bid did comply with the invitation's requirement that the fittings must be manufactured in the United States and that AID, upon further inquiry, received a reaffirmation from CertainTeed that its supplier is a United States manufacturer of the subject fittings. Where a bidder certifies that it is offering domestic parts, as CertainTeed did here, acceptance of the bid creates a binding obligation to furnish domestic parts. Compliance with that obligation is a matter of contract administration for the contracting agency and not our Office. We will not review charges that the awardee will not be able to meet its contract obligation. See Law Enforcement Associates, Inc., B-205024, April 5, 1982, 82-1 CPD 304; Domar Industries Co., Inc., B-202735, September 4, 1981, 81-2 CPD 199.

Accordingly, this issue of H & W's protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel