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DECISION



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

FILE: B-218088.4

DATE: March 27, 1985

MATTER OF: Marconi Electronics, Inc.

DIGEST:

1. Issue of propriety of award under Federal Supply Schedule does not come within "significant issue" exception to timeliness provisions of Bid Protest Regulations.
2. Protester was on constructive notice of Bid Protest Regulations requirements. Consequently, protester's failure to comply with provision does not involve "good cause" so as to permit consideration of untimely protest.
3. Protester's argument that procuring agency would not be prejudiced by consideration of admittedly untimely protest is rejected since timeliness provision of Bid Protest Regulations is to be strictly enforced save for exceptions involving "significant" issues and "good cause" which are not present in subject protest.

Marconi Electronics, Inc. (Marconi), has filed an admittedly untimely protest against any award to Hewlett-Packard Company for generators under Requisition No. F-22-5-0192 issued by the Department of the Navy. Marconi argues that its protest "raises significant issues as to whether any award to Hewlett-Packard under the Federal Supply Schedule program violates the competitive procurement statutes" so as to invoke the significant issue exception (section 21.2(c)) to the timeliness requirements of our Bid Protest Regulations, 49 Fed. Reg. 49,417 (1984) (to be codified at 4 C.F.R. § 21).

Significant issues have been defined as those which we have not previously considered. American Telephone and Telegraph Company, 60 Comp. Gen. 654, 655 (1981), 81-2 C.P.D. ¶ 157. But we have often decided protests against the award of orders under Federal Supply Schedule contracts. See, for example, Sony Industries, B-197300, June 4, 1980, 80-1 C.P.D. ¶ 382. Consequently, the issue raised by Marconi may not be considered to be significant.

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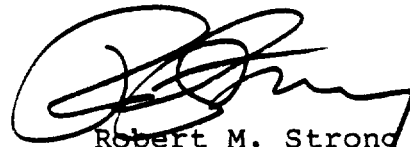
Marconi also invokes the "good cause" exception (described in section 21.2(c), above) to the timeliness requirements. Specifically, Marconi argues that its untimely filing:

". . . was made necessary only because of the decision of the Comptroller General in Case No. B-218088.2, which decision represents an interpretation of recently promulgated regulations whose procedures differ from established practices of this body in the past."

In Marconi Electronics, Inc.-- Reconsideration, B-218088.3, Mar. 8, 1985, 64 Comp. Gen.____, 85-1 C.P.D.____, we affirmed our dismissal of Marconi's February 1, 1985, protest under this same procurement because Marconi had failed to furnish a copy of its protest to the contracting officer within 1 day after Marconi filed its protest with our Office. This "copy" requirement is imposed by section 21.1(d) of our Bid Protest Regulations, above. As our Bid Protest Regulations have been published in the Federal Register, Marconi was on constructive notice of that requirement and of section 21.1(f) which provides for the dismissal of any protest which fails to comply with the requirements of section 21. National Council for Urban Economic Development, Inc., B-213434, Aug. 1, 1984, 84-2 C.P.D. ¶ 140. Consequently, we reject Marconi's "good cause" argument.

Finally, Marconi argues that the Navy would not be "prejudiced by [our] consideration of this protest at this time." However, the timeliness provision (section 21.2), of our Bid Protest Regulations, above, is to be strictly enforced with the exceptions, discussed above, which do not involve the concept of prejudice to the procuring agency. Consequently, we reject Marconi's "prejudice" argument.

Protest dismissed.



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Counsel