

K. Horitz
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DECISION



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

FILE: B-218732.2

DATE: May 15, 1985

MATTER OF: Creative Pultrusions, Inc.--
Reconsideration

DIGEST:

Prior dismissal is affirmed where no new facts or legal arguments are raised on reconsideration which show that dismissal was erroneous.

Creative Pultrusions, Inc. (Creative), requests reconsideration of our dismissal of its protest concerning invitation for bids (IFB) No. DAAJ10-85-B-A133 issued by the Department of the Army (Army) for camouflage support poles.

We affirm our prior dismissal.

Creative, an unsuccessful bidder, protested that it did not have sufficient time to prepare its bid because the Army improperly failed to notify the firm of the procurement. Creative alleged that it was on the qualified bidders list for this item and, therefore, should have been notified by the Army of the procurement. We dismissed Creative's protest because the firm stated that it knew of the April 16, 1985, bid opening date prior to bid opening, but failed to file its protest prior to that date. In this regard, section 21.2(a)(1) of our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1985), requires that a protest based upon alleged improprieties in a solicitation which are apparent prior to bid opening be filed prior to bid opening.

On reconsideration, Creative argues that we should consider its post-bid-opening protest because it learned from the Army only after bid opening why it was not notified of the procurement. However, if the protester believed that it had insufficient time to prepare its bid due to the procuring agency's failure to notify the firm of the procurement, it should have filed a protest with either the procuring agency (which would have accepted an oral protest, see section 14.407-8 of the Federal Acquisition Regulation (FAR), 48 C.F.R. § 14.407-8 (1984)), or with this Office prior to the time set for bid opening on April 16, 1985.

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See Scott Fischman Co.--Request for Reconsideration,
B-216671.2, Dec. 4, 1984, 84-2 C.P.D. ¶ 623; Phoenix Powers
Systems, Inc., B-207818, July 1, 1982, 82-2 C.P.D. ¶ 11.

for *Symon Efron*
Harry R. Van Cleve
General Counsel