

DECISION

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

FILE:

B-219255.3

DATE:

August 2, 1985

MATTER OF:

Sam Brown Company--Reconsideration

DIGEST:

GAO will not consider the merits of an untimely protest under significant issue exception to timeliness requirements where the untimely protest does not raise issue of first impression which would have widespread importance to the procurement community.

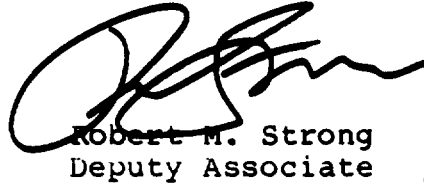
Sam Brown Company (Sam Brown) requests that we consider under the significant issue exception of our Bid Protest Regulations its protest against award under Federal Aviation Administration invitation for bids No. DTFA-02-84-B-00758, which we dismissed as untimely.

We dismiss the request.

We dismissed the protest because the protester did not comply with section 21.2(a)(2) of our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1985), in that the protest was not filed within 10 working days of the date the basis for protest was first known or should have been known.

Our Bid Protest Regulations set precise time limits for filing bid protests to enable this Office to decide an issue while corrective action is possible. To maintain the integrity of our bid protest timeliness rules, we have decided that we will consider the merits of a bid protest not filed within the precise timeframe required only for good cause shown or where the protest raises an issue significant to procurement practice or procedures. 4 C.F.R. § 21.2(c). Under the significant issue exception, however, we will only consider untimely protests when the issue or issues raised are of widespread importance to the procurement community and have not been considered on the merits in previous decisions. Association of Soil and Foundation Engineers, B-217408, Jan. 18, 1985, 85-1 C.P.D. ¶ 61. In order to prevent the timeliness requirements from becoming meaningless, this exception is strictly construed and seldom

used. WAECO Power, Inc., B-218036, Feb. 13, 1985, 85-1 C.P.D. ¶ 224. Sam Brown's protest that, in a mistake in bid situation, the unit price should not be corrected is an issue we have considered before. See Marine Ways Corporation, B-211788, Aug. 29, 1983, 83-2 C.P.D. ¶ 271. Accordingly, the protest does not fall within this exception to our timeliness requirements.



Robert M. Strong
Deputy Associate
General Counsel