



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: LORS Machinery, Inc.--Reconsideration

File: B-227499.2

Date: July 13, 1987

DIGEST

General Accounting Office (GAO) will not consider the merits of an untimely protest under either the good cause or significant issue exceptions to GAO timeliness requirements, since there has been no showing of a compelling reason beyond the protester's control that prevented the timely filing of a protest, and the protest does not present a unique issue of widespread interest to the procurement community.

DECISION

LORS Machinery, Inc., requests that we reconsider our June 18, 1987, dismissal of its protest of an award to Miller Electric Company under request for proposals (RFP) No. DLA400-87-R-0303, issued by the Defense Logistics Agency (DLA) for resistance welding machines. We dismissed LORS' protest as untimely because its protest was filed more than 10 working days after the contracting agency denied the firm's agency-level protest.

We affirm the dismissal of the prior protest.

LORS initially protested to DLA by letter dated January 23, 1987, contending that the awardee's welders did not meet the RFP's specifications. DLA denied the protest in a letter dated February 24, 1987, which LORS received on March 2, 1987. LORS protested to our Office on June 18, 1987, alleging that the awardee had supplied products which failed to meet contract specifications.

Our Bid Protest Regulations provide that where a protest has been filed initially with the contracting agency, any subsequent protest to our Office must be filed within 10 working days of receiving notice of initial adverse agency action in order to be considered timely. 4 C.F.R. § 21.2(a)(3) (1986). We dismissed LORS' June 18 protest to our Office as untimely, since it was filed more than 10 working days after LORS' March 2 receipt of an adverse decision from DLA.

On reconsideration, LORS argues that we should consider the merits of its protest under the provision of 4 C.F.R. § 21.2(c), which states that an untimely protest may be considered for good cause shown or where the protest raises issues significant to the procurement system. LORS alleges that DLA improperly denied its protest based on inaccurate agency records resulting from DLA's failure to comply with procurement and contract administration policies and regulations.

The good cause exception to the timeliness requirements is limited to circumstances where some compelling reason beyond the protester's control prevents the protester from filing a timely protest. Tremco, Inc.--Request for Reconsideration, B-223623.2, Sept. 4, 1986, 86-2 CPD ¶ 260. That is not the case here.

The significant issue exception to our timeliness rules will be invoked only where the protest raises an issue of first impression that would have widespread significance to the procurement community. McCain Associates, B-226533, Mar. 23, 1987, 87-1 CPD ¶ 336. The protest does not meet this standard because we have previously considered the issue of an awardee's compliance with solicitation requirements, and held that whether a firm actually performs in compliance with contract requirements is a matter of contract administration, which is the responsibility of the contracting agency and is not reviewable under our Bid Protest Regulations. See Martin Advertising Agency, Inc., B-225347, Mar. 13, 1987, 87-1 CPD ¶ 285; Central Texas Word Processing, Inc., B-211119, Mar. 30, 1983, 83-1 CPD ¶ 334.

Our dismissal of the prior protest is affirmed.

fa *Seymour Efron*
Harry R. Van Cleve
General Counsel