



**Comptroller General  
of the United States**

Washington, D.C. 20548

## Decision

**Matter of:** Hernandez Contractors--Reconsideration

**File:** B-241718.2

**Date:** February 21, 1991

Micheal G. George, Esq., Bateman & George, for the protester. Richard P. Burkard, Esq., Andrew T. Pogany, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Dismissal of protest alleging that procurement should have been set aside for exclusive small disadvantaged business participation as untimely is affirmed where it was not filed prior to the closing date for receipt of proposals.

### DECISION

Hernandez Contractors requests that we reconsider our October 19, 1990, dismissal of its protest alleging that the Air Force improperly failed to set aside request for proposals (RFP) No. F16600-90-R-A006 exclusively for small disadvantaged business participation.

We dismissed the protest as untimely because it challenged an alleged impropriety in the solicitation that should have been apparent to all offerors prior to the closing date for receipt of proposals and thus should have been protested before that date. 4 C.F.R. § 21.2(a)(1) (1990). Hernandez's protest was filed after the closing date for receipt of proposals.

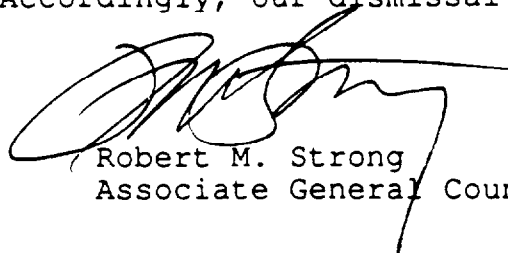
In its request for reconsideration, the protester does not allege that its protest was timely filed; rather, it merely asserts that it was not aware of the alleged impropriety prior to the closing date for receipt of proposals and that the agency intentionally failed to set aside the requirement. Apparently, the protester is requesting that we consider its untimely protest under an exception to our timeliness rules.

Our Bid Protest Regulations contain strict rules requiring timely submission of protests. These timeliness rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously

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without unduly disrupting the procurement process. Air Inc.--  
Recon., B-238220.2, Jan. 29, 1990, 90-1 CPD ¶ 129. In order  
to prevent these rules from becoming meaningless, exceptions  
are strictly construed and rarely used. Id.

Accordingly, our dismissal is affirmed.



Robert M. Strong  
Associate General Counsel