

DECISION

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

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FILE: B-183416

DATE: June 2, 1975

MATTER OF: FRAASS Surgical Manufacturing Company, Inc.

DIGEST:

Contention that protest based upon agency's failure to include requisite "Jewel Bearing" clause in two solicitations which was untimely filed by protester after award of contracts nevertheless should be considered on merits under significant issue exception of 4 C.F.R. 20.2(b) is rejected, since omission of clause was inadvertent, there is no indication that competition was adversely affected, and successful offeror has agreed to include clause in contracts.

By letter dated April 22, 1975, counsel on behalf of FRAASS Surgical Manufacturing Company, Inc. (FRAASS), requested reconsideration of our decision of April 3, 1975, wherein we concluded that FRAASS's protest was untimely filed and could not be considered on its merits since it concerned an alleged impropriety in two solicitations which was apparent prior to the closing date for receipt of proposals and was not filed with our Office until after the award of the resulting contracts.

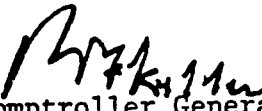
FRAASS's request for reconsideration is made on the basis of section 20.2(b) of our Interim Bid Protest Procedures and Standards (4 C.F.R. 20.2(b)) which permits consideration of an untimely protest if "issues significant to procurement practices" are raised. In this connection, FRAASS argues that the award of two contracts to East-West Industries, Inc., by the Defense Supply Agency's Defense Personnel Support Center are invalid on the basis the solicitations did not contain the "Required Source for Jewel Bearing" clause required by Armed Services Procurement Regulation (ASPR) 1-2207.2(b) (1974 ed.) and that East-West's post-award agreement to modify its contracts to include the clause does not cure the defect.

Section 20.2(b) states in part that where significant issues to procurement practices or procedures are raised, this Office may consider any protest which is otherwise untimely. In this regard, we have held that this exception to the timeliness rules refers to the presence of a principle of widespread procurement interest. See 52 Comp. Gen. 20 (1972).

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However, we do not view the agency's oversight in not including the "Required Source for Jewel Bearing" clause in these solicitations prior to award as raising a significant procurement issue of wide application so as to warrant consideration of FRAASS's untimely protest filed after award. See B-178206, May 8, 1973. Furthermore, since there is no showing that omission of the clause from the solicitation adversely affected competition, and the successful contractor has agreed to modify its contracts to include the clause, we see no need to take any action on the matter.

Accordingly, our decision of April 3, 1975, is affirmed.


Deputy Comptroller General
of the United States