

1797 2 Mr. Melody



**DECISION**

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

FILE: B-202366.2

DATE: April 29, 1981

MATTER OF:

*[Request For]*  
Kathryn A. Rogerson--Reconsideration *]*

**DIGEST:**

1. Protester's unfamiliarity with timeliness requirements set forth in GAO's Bid Protest Procedures does not constitute "good cause" required before GAO will review untimely protest, and prior decision is accordingly affirmed.
2. Where discussions with contracting officer were not intended as protest to agency, time limits for filing protest with GAO were not tolled.

Kathryn A. Rogerson requests that we reconsider our decision in Kathryn A. Rogerson, B-202366, March 26, 1981, 81-1 CPD \_\_\_\_\_. In that decision, we dismissed as untimely contentions that the Department of Agriculture unjustifiably canceled an invitation for bids (IFB) for campground maintenance services and also improperly included a bid abstract from the canceled IFB in the resolicitation bid package. We also denied a portion of the protest alleging that bidders who had submitted late or nonresponsive bids under the canceled IFB should not have been permitted to compete on the resolicitation.

In her reconsideration request, the protester directs our attention to the subsection of our Bid Protest Procedures which provides for consideration of untimely protests where "good cause" is shown. 4 C.F.R. § 20.2(c) (1980). Seeking to invoke this exception, the protester explains that she discussed the matter with the contracting officer on a number of occasions after she learned of the cancellation, and that she would have immediately protested to our Office had she been aware of our timeliness requirements.

~~016744~~

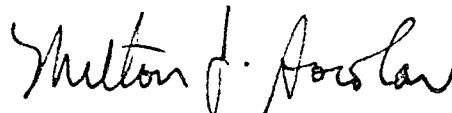
115101

"Good cause" varies with the circumstances of each protest, but generally refers to some compelling reason, beyond the protester's control, which prevented her from filing a timely protest. Panoramic Studios, 52 Comp. Gen. 20 (1972); R. A. Miller Industries, Inc. (Reconsideration), B-187183, January 14, 1977, 77-1 CPD 32. The protester's unfamiliarity with our Procedures does not constitute such a cause. An opposite conclusion would effectively nullify our timeliness standards by permitting the submission of late protests based on a protester's mere affirmation that it was unaware of our Procedures. Such a result would be undesirable since these time limits were originally imposed to assure that Government procurements would not be encumbered by untimely protests. R.A. Miller Industries, Inc. (Reconsideration), supra. Thus, toward this end, our Procedures have been published in the Federal Register, and it has been our consistent position that parties must be charged with constructive notice of their contents. Technical Industries, Inc.-- Reconsideration, B-196432.6, August 13, 1980, 80-2 CPD 111; Post Marketing Corporation, B-197472, January 28, 1980, 80-1 CPD 76.

It is also of no consequence here that the protester discussed the matter of the cancellation with the contracting officer. Only the lodging of a protest with this agency official would have sufficed to toll the running of the time limits for protesting to our Office, and it does not appear that these discussions were intended as such. See Propserve Incorporated, B-192154, February 28, 1979, 79-1 CPD 138.

The protester has submitted no evidence of a mistake of fact or law with regard to our denial of its third protest basis. 4 C.F.R. § 20.9(a).

Accordingly, our prior decision is affirmed.



Acting Comptroller General  
of the United States