

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

25963

FILE: B-212340.2

DATE: August 9, 1983

MATTER OF: LePrix Electrical Distributors,
Ltd.--Reconsideration**DIGEST:**

Protester whose initial protest was dismissed as untimely because it alleged an impropriety in an invitation for bids (IFB) but was not filed until after bid opening may not obtain consideration of same issue by alleging that timeliness should be calculated from date protester learned its bid was nonresponsive for failure to comply with disputed IFB provision because that would circumvent the purpose of GAO's timeliness requirements, which is to give protester and interested parties fair opportunity to present their cases with minimal disruption to the orderly and expeditious process of Government procurements.

LePrix Electrical Distributors, Ltd. (LePrix), requests reconsideration of our decision in LePrix Electrical Distributors, Ltd., B-212340, July 21, 1983, 83-2 CPD . Our decision dismissed as untimely a protest filed by LePrix which alleged that a solicitation requirement that a sample be submitted with its bid was unreasonable. Since LePrix did not protest this issue until after bid opening, we dismissed the protest as untimely. See 4 C.F.R. § 21 (1983). LePrix disputes our finding, arguing that timeliness should be calculated from the date LePrix was informed that its bid was nonresponsive.

We will not consider LePrix's protest on this basis. To do so would render meaningless our requirements with respect to timeliness. We cannot permit those who initially fail to submit a timely protest of an alleged impropriety in an invitation for bids (IFB) to circumvent our procedures and have the same issue considered simply by reclassifying the protest as one concerning the nonresponsiveness determination stemming from the protester's failure to comply with the disputed IFB provision. This would circumvent the purpose of our timeliness requirements, which

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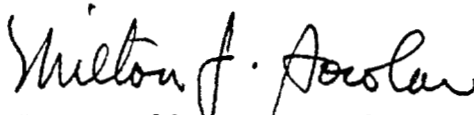
are designed to give protesters and interested parties a fair opportunity to present their cases with minimal disruption to the orderly and expeditious process of Government procurements. Central Texas College, B-208528.3, December 22, 1982, 82-2 CPD 565.

Although LePrix has now requested the opportunity to submit samples as the IFB required, we note that a bid which is nonresponsive may not be corrected by the bidder after bid opening. To allow the bidder to correct a material deviation from the solicitation after bid opening would permit a bidder to accept or reject a contract after bids are exposed by correcting or refusing to correct its bid, which would adversely affect the integrity of the competitive bidding system. Vin Construction Company, Inc., B-206526, June 30, 1982, 82-1 CPD 637.

Further, since LePrix has been found nonresponsive, LePrix is ineligible for award. Therefore, we will not consider any of the remaining issues raised by LePrix in its initial protest because they are academic.

Finally, we note that in its reconsideration request, LePrix has raised a new protest issue which appears to independently satisfy our timeliness requirements. This matter will be considered as a separate protest and will be developed in accordance with our procedures.

Our prior decision is affirmed.

for 
Comptroller General
of the United States