



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Cleveland Telecommunications Corporation  
--Reconsideration

**File:** B-247964.4

**Date:** November 12, 1992

Michael Waller for the protester,  
Behn Miller, Esq., and Christine S. Melody, Esq., Office of  
the General Counsel, GAO, participated in the preparation of  
the decision.

### DIGEST

Prior decision dismissing protest is affirmed where protest  
was untimely filed and no basis exists for considering  
protest under significant issue exception.

### DECISION

Cleveland Telecommunications Corporation (CTC) requests  
reconsideration of our decision, Cleveland Telecommunica-  
tions Corp., B-247964.3, July 23, 1992, 92-2 CPD ¶ 47,  
dismissing as untimely its protest against a contract  
award to Ozanne, Inc., under request for proposals (RFP)  
No. 3-445708, issued by the National Aeronautics and Space  
Administration (NASA) for custodial, roads and grounds  
maintenance services at the NASA Lewis Research Center in  
Cleveland, Ohio.

We affirm our dismissal of the protest.

This procurement was conducted competitively pursuant to  
section 8(a) of the Small Business Act, 15 U.S.C. § 637(a)  
(1988), which authorizes the Small Business Administration  
(SBA) to enter into contracts with government agencies and  
to arrange for performance through subcontracts with soci-  
ally and economically disadvantaged small business concerns.  
See Federal Acquisition Regulation (FAR) §§ 19.804 and  
19.805; 13 C.F.R. § 124.311 (1992). For these procurements,  
the government uses a Standard Industrial Classification  
(SIC) code system which defines activities by industry  
categories and indicates either a maximum number of employ-  
ees or annual receipts allowed for a business concern to be  
considered small within that particular industry. This  
system is published in the SIC Manual, which is also set out  
in FAR § 19.102(g).

In this case, NASA classified the procurement under SIC code 8744, which lists the following two size options:

	<u>in millions</u>
Facilities Support Management Services	\$ 3.5
Base Maintenance	13.5

Because this RFP called for the acquisition of custodial maintenance, roads maintenance, and grounds maintenance, NASA selected the Base Maintenance \$13.5 million size option for this procurement. In this regard, the SIC Manual provides that the Base Maintenance classification is the appropriate size option where the procurement constitutes three or more separate maintenance activities. See FAR § 19.102.

In its March 26 protest to this Office, CTC alleged that NASA had selected an improper size standard in order to steer contract award to Ozanne since--according to the protester--that firm was not eligible to compete under the correct size standard.

We dismissed the protest as untimely. As explained in our decision, our Bid Protest Regulations require protests against alleged solicitation improprieties--such as CTC's challenge to use of the \$13.5 million size standard--to be filed prior to the time set for receipt of proposals. See 4 C.F.R. § 21.2(a)(1) (1992). In this case, since the RFP clearly indicated that firms--such as Ozanne--which exceeded the \$3.5 million size standard were eligible to compete for this award, and since CTC's protest--contending that this requirement should have been restricted to only those firms falling within the \$3.5 million size classification--was not filed until almost 4 months after the November 29 closing date, we dismissed the protest.

On reconsideration, CTC does not dispute the untimeliness of its protest; rather, CTC contends that the alleged agency "improprieties" and FAR violations outlined in its initial protest warrant consideration by this Office under the significant issue exception to our timeliness rules. See 4 C.F.R. § 21.2(c). In this regard--by means of a September 9 submission intended to supplement its August 12 request for reconsideration--CTC has provided this Office with "additional data . . . alluded to in our prior correspondence" which purports to demonstrate that CTC's protest is appropriate for review under the significant issue exception. The September 9 information is apparently intended to establish that NASA is biased in favor of contractors which employ former NASA officials.

As a preliminary matter, CTC's September 9 submission itself is untimely. Our Bid Protest Regulations do not envision a piecemeal presentation of evidence, information or analysis

since the failure to make all arguments or submit all information during the course of the initial protest undermines the goals of our bid protest function to produce fair and equitable decisions based on consideration of all parties' arguments on a fully developed record. See RC 27th Ave. Corp.--Recon., B-246727.2, May 20, 1992, 92-1 CPD ¶ 455. Accordingly, we do not reconsider decisions on the basis of previously available information; a protester that fails to submit all relevant information in its initial protest does so at its own peril. Id. Since CTC could have--but did not--provide this information in its initial protest, the September 9 submission provides no basis for reconsidering our prior decision.

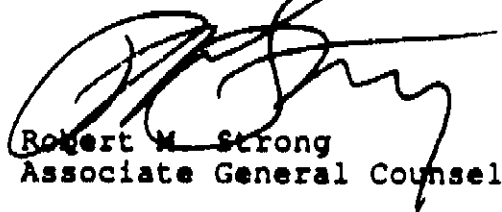
In any event, we do not find that CTC's allegations of agency bias warrant invoking the significant issue exception here. Our timeliness rules reflect the dual requirement of giving parties a fair opportunity to present their cases and resolving protests expeditiously without unduly disrupting or delaying the procurement process. Air Inc.--Recon., B-238220.2, Jan. 29, 1990, 90-1 CPD ¶ 129. Although we may invoke the significant issue exception to our timeliness rules when, in our judgment, the circumstances of a given case are such that our consideration of the protest would be in the best interest of the procurement system, we will not invoke this exception simply because the protester alleges a procurement impropriety. Rather, in order to prevent our timeliness rules from becoming meaningless, we strictly construe and seldom use the significant issue exception, limiting it to those protests that raise issues of widespread interest to the procurement community which have not been considered on the merits in a previous decision. Mead Data Cent., 70 Comp. Gen. 371 (1991), 91-1 CPD ¶ 330; DynCorp, 70 Comp. Gen. 38 (1990), 90-2 CPD ¶ 310. Here, while we recognize the importance of the matter to CTC, its complaint does not present an issue of such widespread interest or importance to the procurement community as to justify invoking the exception. See Mirada Assocs.--Recon., B-246376.2, Jan. 2, 1992, 92-1 CPD ¶ 12; American Maint. Co., B-228396.7, June 22, 1990, 90-1 CPD ¶ 578.

The information contained in the September 9 submission provides an insufficient basis for our review in any event. Specifically, this submission consists of: (1) an assertion by CTC that Ozanne employs two retired NASA officials as well as a brother of a NASA contracting officer; (2) a list of five contractors who allegedly employ former NASA officials; (3) "additional data" indicating that these five contractors have received various NASA contract awards; (4) a newspaper photograph with a caption indicating that Ozanne has not employed the custodial employees of the previous NASA contractor for these services; (5) two agency staff memoranda advising NASA employees to refrain from

expressing support for picketing custodial employees of the previous contractor who object to Ozanne's hiring practices; and (6) a list of "QUESTIONS FOR NASA" prepared by the protester regarding its allegations of bias by the agency. The mere fact that a particular contractor employs former agency personnel does not by itself establish agency bias or bad faith; rather, such bare allegations, unaccompanied by supporting evidence, amount to speculation--and do not provide a basis for protest. See D/FW Appraisal Corp., B-248429.2, Sept. 30, 1992, 92-2 CPD ¶ 450; Sierra Tech. and Resources, Inc., B-243777.3, May 19, 1992, 92-1 CPD ¶ 450.

On September 15, CTC submitted another supplement to its request for reconsideration which claims that Ozanne failed to indicate in its proposal the required number of vacuum cleaners necessary to perform the custodial maintenance portion of this contract. CTC argues that Ozanne must have received this contract award as a result of agency bias since this alleged proposal deficiency was not detected by the source evaluation panel. First, this allegation is raised in a piecemeal fashion and appears untimely, since it was raised over 5 months after CTC was advised on March 25 that award had been made to Ozanne, and there is no indication that CTC diligently pursued information regarding the evaluation of Ozanne after learning that award had been made. In any event, as noted above, this Office will not consider a protest of bias on the basis of unsubstantiated innuendo or suspicion.

Our prior decision is affirmed.

  
Robert M. Strong  
Associate General Counsel