



## Decision

**Matter of:** Zero Waste Solutions, Inc.

**File:** B-418550

**Date:** March 31, 2020

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Megan C. Connor, Esq., and Jason A. Blindauer, Esq., Piliero Mazza PLLC, for the protester.  
Abraham Young, Esq., Department of the Army, for the agency.  
Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest filed more than 10 days after the protester knew or should have known of its basis for challenging the Department of the Army's award of an intergovernmental agreement is not timely and will not be considered.

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### DECISION

Zero Waste Solutions, Inc. (ZWS), of Concord, California, protests the Department of the Army's award of an intergovernmental support agreement (IGSA) to the local government of Hardin County, Kentucky, to provide solid waste management services at Fort Knox, Kentucky.

We dismiss the protest

### BACKGROUND

In March 2019, the agency awarded a contract to ZWS to provide solid waste management services at Fort Knox, Kentucky. That contract provided for a 1-year base performance period and four 1-year option periods.

In December 2019, the Hardin County government published a request for proposals to provide the same waste management activities at Fort Knox that ZWS was performing under its 2019 contract. Protest at 4.

On January 2, 2020, in response to ZWS's query regarding the Hardin County solicitation, the Army advised ZWS as follows:

The request for bids package advertised by Hardin County is for many of the same services currently being provided by Zero Waste Solutions under contract W9124D-19-C-0008. Fort Knox continuously strives to be good stewards of Government funds by reducing costs whenever possible. Other Army installations have found cost savings by partnering with local governments for services, including waste removal. Fort Knox is exploring the possibility of reducing its costs in this manner through a partnership with Hardin County Government.

Protest exh. A., Email from Army to ZWS.

On February 21, the Army's contracting officer for ZWS's 2019 waste management contract spoke with ZWS's representative, advising ZWS that the agency had executed an IGSA with Hardin County to perform waste management services at Fort Knox and, accordingly, that the agency would not be exercising the next option on ZWS's contract. Agency Request for Dismissal, exh. G-2, Declaration of Contracting Officer. ZWS does not dispute the agency's characterization of the conversation. ZWS Opposition to Request for Dismissal, at 3.

By letter dated February 25, the agency confirmed the substance of the February 21 conversation. On March 6, ZWS filed this protest.

## DISCUSSION

ZWS protests that the award of the IGSA is improper because, among other things, it "seeks services duplicative to an existing contract." Protest at 6.

The agency responds that ZWS's protest is not timely filed. Specifically, the agency notes that ZWS was notified of the award on February 21, but did not file its protest within 10 days from that date. Agency Request for Dismissal, Mar. 18, 2020, at 11-13.

Our Bid Protest Regulations contain strict rules for the 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 without disrupting or delaying the procurement process. Gorod Shtor, B-411284, May 22, 2015, 2015 CPD ¶ 162 at 2-3; Dominion Aviation, Inc.--Recon., B-275419.4, Feb. 24, 1998, 98-1 CPD ¶ 62 at 3. Of relevance here, our Bid Protest Regulations require that protests that are not based on alleged improprieties in a solicitation "shall be filed not later than 10 days after the basis of protest is known or should have been known (whichever is earlier)." 4 C.F.R. § 21.2(a)(2).

As noted above, the record establishes that the contracting officer advised ZWS on February 21 that the agency had executed an IGSA with Hardin County to perform waste management services at Fort Knox and, accordingly, that the agency would not be exercising the next option on ZWS's contract. Nevertheless, ZWS did not file its

protest with our Office until March 6--more than 10 days later. On this record, ZWS's protest challenging the IGSA award to Hardin County is not timely filed and will not be considered.<sup>1</sup>

Thomas H. Armstrong  
General Counsel

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<sup>1</sup> ZWS notes that our regulations permit us to consider an untimely protest where we determine that a protest raises issues significant to the protest system. 4 C.F.R. § 21.2(c). The significant issue exception is limited to untimely protests that raise issues of widespread interest to the procurement community. Schleicher Cmty. Corrs. Ctr., Inc., B-270499.3 et al., Apr. 18, 1996, 96-1 CPD ¶ 192 at 7. Here, we reject ZWS's assertion that the agency's award of IGSA's to perform waste management services is of widespread interest to the procurement community; accordingly, we decline to consider ZWS's protest.