

H.K. Johnson



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: NPF Services, Inc.--Request for Reconsideration

File: B-236841.2

Date: January 3, 1990

DIGEST

1. Request for reconsideration of prior decision dismissing protest as untimely is denied where the information provided by the protester does not show that the prior decision contains either errors of fact or of law.
2. An untimely protest will not be considered under the good cause exception to the bid protest timeliness rules where the protester had sufficient time, after learning that the agency did not agree that the solicitation contained improprieties, to file its protest before the closing date for receipt of proposals.
3. Invoking the significant issue exception to General Accounting Office timeliness rules is not warranted where the issue of alleged solicitation improprieties is not of widespread interest to the procurement community.

DECISION

NPF Services, Inc., requests reconsideration of our decision, NPF Servs., Inc., B-236841, Oct. 10, 1989, 89-2 CPD ¶ 335, in which we dismissed as untimely its protest of the competitive procurement of computer maintenance services sought by Westinghouse Savannah River Co., on behalf of the Department of Energy (DOE), under request for quotations (RFQ) No. EC-890817.

We deny the request for reconsideration.

In its protest, NPF complained that the RFQ failed to contain a complete list of the computer equipment to be maintained and that the solicitation required the subcontractor to obtain security clearances. We dismissed the protest because NPF's objection of these apparent solicitation improprieties was not filed by the closing date for

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receipt of proposals, August 25, 1989 as required by our Bid Protest Regulations. See 4 C.F.R. § 21.2(a)(1) (1989).

In its request for reconsideration, NPF argues that our dismissal decision was based upon erroneous information. Specifically, NPF contends that we did not consider that NPF did not receive the RFQ on the date it was issued (August 4) and that the DOE in its report stated the incorrect proposal due date. This information, however, does not show that our prior decision contains either errors of fact or of law or information not previously considered that warrant its reversal or modification. 4 C.F.R. § 21.12(a); Microphor, Inc.--Request for Recon., B-233148.2, Feb. 1, 1989, 89-1 CPD ¶ 103. The date that NPF received the RFQ (August 10) is irrelevant to its dismissal for failure to file its protest prior to the closing date for receipt of proposals because NPF does not allege that it received the solicitation with insufficient time to timely file its protest. With regard to the alleged erroneous closing date, our decision stated the correct closing date. In any case, the erroneous statement in the agency report is irrelevant to this protest since NPF admits that it did not file its protest until after the closing date for receipt of proposals.

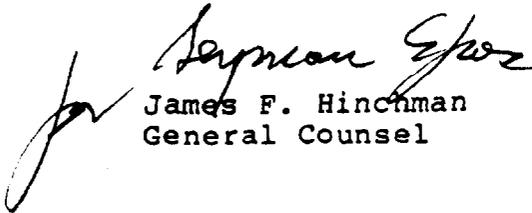
NPF also argues that we should consider its protest under the good cause exception to our timeliness rules. 4 C.F.R. § 21.2(b). NPF states that after it received the RFQ it attempted to resolve the alleged solicitation improprieties with Westinghouse but that when it finally learned that Westinghouse would not amend the solicitation that it was too late to timely file its protest.

The good cause exception to the timeliness requirements is limited to circumstances where some compelling reason beyond the protester's control prevents it from filing a timely protest. John Cuneo, Inc.--Recon., B-227983.2, Aug. 10, 1987, 87-2 CPD ¶ 147. That is not the case here. NPF knew on August 17 that Westinghouse did not agree that the solicitation contained improprieties and would not amend the RFQ. NPF waited 15 days to file the protest with our Office. NPF's meeting with Westinghouse on August 23 to discuss these protest issues does not bring this case under the "good cause" exception to our timeliness rules since NPF had already identified its protest arguments in its discussions with Westinghouse, and was told on August 17 that the solicitation would not be changed, such that it had sufficient time to timely protest this matter to our Office.

NPF also argues that we should consider its untimely protest under the significant issue exception to our timeliness rules. See 4 C.F.R. § 21.2(b). However, we apply this

exception sparingly. Microeconomic Applications, Inc.--
Recon., B-229749.3, Apr. 26, 1988, 88-1 CPD ¶ 404. This
protest does not fall under this exception, because the
issues raised relate only to this specific procurement
action and do not have widespread significance to the
procurement community.

The request for reconsideration is denied.


James F. Hinchman
General Counsel