

**DECISION**



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

60871

FILE: B-185924

DATE: May 12, 1976

MATTER OF: Homemaker Health Aide Service of the National  
Capital Area, Inc.--Reconsideration

98951

DIGEST:

Untimely protest involving alleged misapplication of evaluation criteria will not be considered under section 20.2(c) of our Bid Protest Procedures, as matter does not involve significant principle of widespread procurement interest and good cause preventing timely filing has not been shown.

Homemaker Health Aide Service of the National Capital Area, Inc. (Homemaker), has requested reconsideration of our decisions of March 1, 1976, and March 26, 1976, which declined to consider the merits of its protest as it was determined not to have been timely filed in our Office.

Our decision of March 26, 1976, held that while the initial protest of Homemaker to the Department of Human Resources of the District of Columbia (DHR) was timely filed, the subsequent protest to our Office was not filed within 10 days of initial adverse agency action. 40 Fed. Reg. 17979 (1975). Homemaker requests reconsideration under section 20.2(c) of our Bid Protest Procedures which provides:

"(c) The Comptroller General, for good cause shown, or where he determines that a protest raises issues significant to procurement practices or procedures, may consider any protest which is not filed timely."

As to what constitutes a significant issue, we stated in Fairchild Industries, Inc., B-184655, October 30, 1975, 75-2 CPD 264:

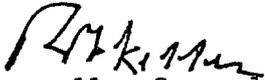
"\* \* \* 'Issues significant to procurement practices or procedures' refers to the presence of a principle of widespread interest and not necessarily to the sum of money involved. 52 Comp. Gen. 20, 23 (1972). There have been instances in which our Office has determined that although a protest was filed untimely, the issue presented was significant to the entire procurement community and therefore was considered on the merits. See, for example, Fiber Materials, Inc., 54 Comp. Gen. 735 (1975), 75-1 CPD 142, where in a research and development procurement individually tailored statements of work for the two offerors in the competitive range precluded one offeror from competing on an equal basis, contrary to the basic principles of the law and regulations governing the conduct of procurements; Willamette-Western Corporation; Pacific Towboat & Salvage Co., 54 Comp. Gen. 375 (1974), 74-2 CPD 259, where the release of a draft request for proposals to the incumbent contractor 5 months before other competitors received the official RFP resulted in partiality toward the incumbent to the prejudice of competitors, contrary to the concept implicit in negotiated procurements and statutory requirement for maximum competition; and 52 Comp. Gen. 905 (1973), where pursuant to the invitation for bids the addition of a \$1,000 evaluation factor (which equaled nearly 50 percent of the evaluated price) penalized all potential suppliers except the incumbent contractor, thereby precluding effective competition."

Homemaker alleges that "glaring irregularities" existed in the award of the contract by DHR which warrants consideration of its protest under the above-cited provision. First it is alleged that the report evaluating the proposals is dated December 17, 1975, while notice of award was sent to Homemaker on December 11, 1975. Second, Homemaker alleges that proper evaluation of the criteria would have resulted in its being second low offeror, thereby making it eligible for a portion of the contract. Last, it is alleged that the award was made without consideration of the fact that reservation was expressed in the evaluation report concerning the ability of the low offeror to perform the contract. Basically, the protest involves

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the application of the evaluation criteria set forth in the solicitation and consideration of the recommendations in the evaluation report by the contracting officer. In our opinion, Homemaker's protest does not contain the requisite level of widespread procurement interest, exemplified by the case cited above, that is significant to procurement practices or procedures. "Good cause" generally refers to some compelling reason, beyond the protester's control, which has prevented him from filing a timely protest. 52 Comp. Gen. 20, 23 (supra). Homemaker has not indicated any supervening circumstance which delayed the filing of its protest to this Office.

Accordingly, our decision that the protest is untimely is affirmed.

  
Deputy Comptroller General  
of the United States