

DECISION

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

50895

FILE: B-183421

DATE: August 8, 1975

97571

MATTER OF: Marina Social Security Building Committee

DIGEST:

1. Upon reconsideration, prior decision that protest against geographical limitation of proposed building site was untimely filed under 4 C.F.R. § 20.2(a) (1974) is affirmed since that decision was based on events that preceded our March 25 request for further information concerning protest bases.
2. GAO determines timeliness of protests as soon as practicable upon presentation of pertinent information, regardless of source that presents it.

By letter dated June 27, 1975, the Marina Social Security Building Committee (Committee) requests that we reconsider our decision of June 24, 1975, that its protest of March 15, 1975, was untimely under 4 C.F.R. § 20.2(a) (1974) (Procedures) and would not be considered on its merits. In support of its request, the Committee notes that the June 24 decision is apparently inconsistent with our March 25, 1975, letter to it requesting the specific bases of its protest within 5 days of its receipt of that letter. The Committee apparently interpreted that request as a commitment, on our part, to pursue the merits of its contentions. It states that its response to the March 25 letter was timely mailed by it and questions whether the bases for our decision were not merely iteration of the General Services Administration (GSA) position in the matter.

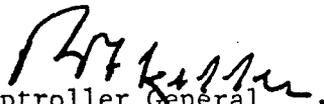
For the reasons that follow, our June 24 decision is affirmed. The June 24 decision concluded that the March 25 protest was untimely, not on the basis of the Committee's response to our request for further details, but rather as a result of events that occurred prior to that date. As stated in the next to last paragraph of the June 24 decision, the basis for the Committee's protest was known to it upon receipt of the February 21 letter from GSA rejecting its proposal. Yet, it chose not to protest to us until March 15, which is clearly beyond the 5 working days time limit imposed by our Procedures.

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By way of clarification, frequently when a protest is initially received by us, it does not contain sufficient information to enable us to determine if it was timely filed under our Procedures. As in this case, the request for further information both from the protester and the contracting agency is to permit us to ascertain whether the protest was timely filed. If the protest is timely filed, we proceed to consider the merits of the protest. Otherwise, as soon as it becomes apparent a protest was untimely filed, we cease further consideration of the merits unless certain exceptions, not here applicable, permit consideration of the merits of the protest.

In the case of the June 24 decision, the information contained in the correspondence from GSA dated May 27, 1975, and signed on behalf of the General Counsel, GSA, indicated that the instant protest was untimely filed under our Procedures. Therefore, we do not consider our June 24 decision an abdication of our decision making process, or a change in ground rules. Rather, this was an instance where information was generated after our initial determination to develop a protest which stopped further action on our part. Our decision, based on that information, would have been the same at any time the information surfaced.

Accordingly, our June 24 decision is affirmed.


Deputy Comptroller General
of the United States