

**DECISION**

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

Not for in  
PK-I

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**FILE:** B-216069.2 **DATE:** December 24, 1984  
**MATTER OF:** ACS Construction Company, Inc.

**DIGEST:**

GAO will not reopen a case which was closed because the protester did not send a timely indication of its continued interest in the protest to GAO, where the failure to timely indicate continued interest was caused by counsel's moving offices.

ACS Construction Company, Inc. (ACS), requests that we reopen the file on ACS's protest against the award of a contract by the Department of the Army under invitation for bids No. DACA63-84-B-0110. We closed our file because we did not receive a timely reply to our request for a statement of continued interest in the protest after receipt of the agency report on the matter. We find it would not be appropriate to reopen the case.

ACS's counsel states that on or about October 23, 1984, he received our letter of October 18, 1984, advising that the agency report had been sent and that written comments or other written indication of continuing interest in the matter had to be filed with us within 10 working days after receipt of the report or the protest would be dismissed. See 4 C.F.R. § 21.3(d) (1984). While ACS contacted GAO by phone on November 13, 1984, to advise that a response had been mailed, the file had been closed November 9, since our Office had not heard from the protester within the prescribed time.

ACS acknowledges that comments or an indication of continuing interest in the protest was due by November 6, 1984, but such interest was not expressed until 1 week later. However, counsel requests that we overlook the delay because counsel was moving his office and was unaware of our 10-day rule until it was too late. It is also contended that the delay has not prejudiced any party.

Both our published procedures and our letter of October 18 clearly indicate that comments are to be filed with the GAO within 10 working days and state the consequences of a failure to file in a timely manner.

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Therefore, we consider it incumbent upon a protester to exercise the due diligence and care necessary to meet these requirements. See Ikard Manufacturing Company, B-213607.2, B-213608.2, May 21, 1984, 84-1 C.P.D. ¶ 533. Even if the alleged confusion of moving offices prevented counsel from reading the letter received on October 23, since our procedures are published in the Federal Register, protesters are charged with constructive notice of their contents, Ikard Manufacturing Company, B-213607.2, supra. Under these circumstances, we find no basis to reopen the file.

We regard bid protests as serious matters which require effective and equitable procedural standards both so that parties have a fair opportunity to present their cases and so that protests can be resolved in a reasonably speedy manner. See Ikard Manufacturing Company, B-213607.2, supra; Edron, Inc.--Reconsideration, B-207353.2, Sept. 8, 1982, 82-2 C.P.D. ¶ 207. Our procedures are intended to provide for expeditious consideration of objections to procurement actions without unduly disrupting the government's procurement process. Ikard Manufacturing Company, B-213606.2, supra.

Reopening the file on ACS's protest at this time would be inconsistent with this purpose. Therefore, we will not reopen the case.

*Harry R. Van Cleve*

Harry R. Van Cleve  
General Counsel