



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Jerry Watson Realty--Reconsideration
File: B-227883.2
Date: September 14, 1987

DIGEST

Dismissal of original protest for failure to file comments on agency report in timely manner is affirmed, even though protester received report after date it was due, because despite notice of its responsibility, protester allowed lapse of more than 7 working days after report was due before notifying the General Accounting Office of late receipt.

DECISION

Jerry Watson Realty requests reconsideration of our August 14, 1987, dismissal of its protest under invitation for bids (IFB) No. 001-125-87 issued by the Department of Housing and Urban Development (HUD). The protest concerned the agency's cancellation of the solicitation after bid opening. We dismissed the protest because the protester failed to file in our Office its comments in response to the agency report or to provide any notice of its continued interest in the protest within 7 working days following our receipt of the agency report, as required by our Bid Protest Regulations. 4 C.F.R. § 21.3(e) (1987). Under these circumstances, the Regulations require that a protest be dismissed.

We affirm the dismissal.

In its request for reconsideration, the protester states that it received the agency report on August 5, 1987, and that it posted its comments to our Office by express mail on August 12. The protester expresses the view that its comments were timely because they were filed in our Office within 7 working days of its receipt of the agency report, in accordance with the instructions we provided with our acknowledgment of its protest.

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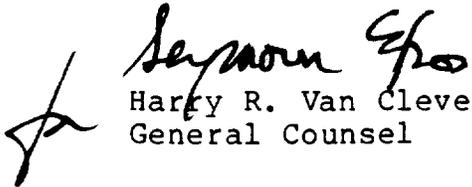
The filing deadlines of our Bid Protest Regulations are prescribed under the authority of the Competition in Contracting Act of 1984 (CICA); their purpose is to enable us to comply with the statute's mandate that we resolve bid protests expeditiously. 31 U.S.C. § 3554 (Supp. III 1985); U. S. Shutter Co.--Reconsideration, B-219952.2, Jan. 15, 1986, 86-1 C.P.D. ¶ 42. To avoid delay in the resolution of protests, the Bid Protest Regulations provide that the protester's failure to file comments within the 7 day period, or to file a statement requesting that the protest be decided on the existing record, or to request an extension of the period for submitting comments, will result in the dismissal of the protest. 4 C.F.R. § 21.3(e). Although the Regulations require that the contracting agency furnish a copy of the report to the protester on the same date the report is filed in our Office, we have no way of knowing when a protester actually receives a report. Therefore, we inform the protester in our standard acknowledgment notice as to the date on which the agency report is due and advise that our Office must be promptly notified if a copy of the report is not received on that date; otherwise, it will be assumed that the protester received a copy of the report on the same day we received it. See Harrell-Patterson Contracting, Inc.--Request for Reconsideration, 65 Comp. Gen. 330 (1986), 86-1 C.P.D. ¶ 180. But for such a requirement, the protester could idly await a copy of the report for an indefinite time to the detriment of the protest system as well as our ability to resolve the protest expeditiously. Id.

The report was due on July 28. The protester did not contact our Office concerning its nonreceipt of a copy of the report by July 28 or inform us of the date it actually received the report until after we dismissed the protest on August 14. That we received the protester's comments within 7 working days of the date it states that it actually received the report does not warrant reversal of the dismissal because our Office received no information from the protester that it had not timely received the agency report or an expression of continued interest in the protest within the required time period. NJCT Corp.--Request for Reconsideration, B-219114.2, Nov. 4, 1985, 85-2 C.P.D. ¶ 515.

We note that in its request for reconsideration, Jerry Watson Realty expresses the view that it is "imperative" that our office review the protest. The protester states that this is due to HUD's termination of a contract under another solicitation that had been awarded to the protester and the issuance by HUD of a Temporary Denial of Participation (TDP) in the HUD Property Disposition program under

24 C.F.R. § 24.18(a) (1987) (against the protester and its affiliates for "irregularities" in the protester's performance and suspicion of certain antitrust violations. HUD advised that these matters have been submitted to the Department of Justice for investigation. To that extent, they are not for consideration by our Office in any case. See B-K Mfg., Co., B-218832, June 6, 1985, 85-1 C.P.D. ¶ 650.

We affirm our prior dismissal.


Harry R. Van Cleve
General Counsel