



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Honeywell, Inc.--Reconsideration
File: B-229682.2
Date: February 10, 1988

DIGEST

Dismissal of original protest for failure to file comments on agency report is affirmed, even though protester alleged nonreceipt of report and misrepresentations by the agency, because despite notice of its responsibility, protester failed to timely notify the General Accounting Office of the nonreceipt of the report.

DECISION

Honeywell, Inc. requests that we reconsider our January 19, 1988, dismissal of its protest under request for proposals No. M00681-87-R-0040, issued by the United States Marine Corps. We dismissed the protest because Honeywell failed to file in our Office, as required by our Bid Protest Regulations, 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. 4 C.F.R. § 21.3(e) (1987).

We affirm the dismissal.

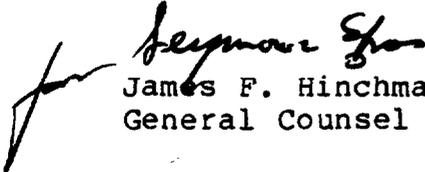
In its request for reconsideration, Honeywell states that it never received the report from the agency and that the contracting officer misrepresented to the protester that the agency report had not yet been completed and submitted to our Office and refused to furnish Honeywell a copy of the draft report. Honeywell argues that the misrepresentations of the agency excuse its failure to notify us of their nonreceipt of the agency report.

The filing deadlines of our Bid Protest Regulations are prescribed under the authority of the Competition in Contracting Act of 1984; their purpose is to enable us to comply with the statute's mandate that we resolve bid protests expeditiously. 31 U.S.C. § 3554(a) (Supp. III 1985); U.S. Shutter Co.--Reconsideration, B-219952.2, Jan. 15, 1986, 86-1 CPD ¶ 42. To avoid delay in the

resolution of protests, the Bid Protest Regulations provide that the^t 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 date we received it. See Harrell-Patterson Contracting, Inc.--Request for Reconsideration, 65 Comp. Gen. 330 (1986), 86-1 CPD ¶ 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 December 31, 1987, and we received the report on that date. We calculated the protester's comments to be due on January 12, 1988. Honeywell did not notify us of its nonreceipt of the report until after we had dismissed the protest on January 19, 1988. We do not find Honeywell's arguments concerning the alleged misrepresentations of the contracting officer to be dispositive. The contracting officer, located in California, does not issue the report on behalf of the Marines. He forwards his draft statement on the protest to the Marine Headquarters in Washington, D.C., where it is reviewed prior to issuance to GAO and the parties. The fact that Honeywell may have misinterpreted the response from the contracting officer is one of the reasons we impose an obligation to notify this Office of nonreceipt of a report by the due date to avoid such conflicts.

Since Honeywell did not comply with the requirements of our regulations, the dismissal of its protest is affirmed.


James F. Hinchman
General Counsel