



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Kinross Manufacturing Corporation

File: B-232182

Date: September 30, 1988

DIGEST

Protest is dismissed for failure to file timely comments to agency report where protester did not fulfill its obligation to notify the General Accounting Office, within required timeframe, that it had not received the report.

DECISION

Kinross Manufacturing Corporation protests the rejection of its bid by the Navy under invitation for bids (IFB) No. N00104-88-B-0016. The solicitation was issued on November 12, 1987, as a small business set-aside for impulse cartridges and included a separate quantity requirement as a combined small business-labor surplus area set-aside. Kinross submitted the apparent low bid. Upon review of the bid, the contracting officer found that Kinross had represented that it was not the manufacturer and was not a regular dealer of the supplies offered, and thereupon rejected Kinross' bid.

We dismiss the protest because Kinross has not fulfilled its obligation to file timely comments to the agency's report and did not notify our Office, within the required time period, that it had not received the report.

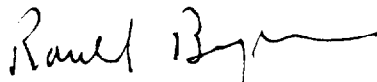
Our Bid Protest Regulations, 4 C.F.R. part 21 (1988), are designed to provide the protester a fair opportunity to present its case and, at the same time, to enable our Office to comply with the statutory mandate that we resolve bid protests in an expeditious manner so as to avoid undue delay in the procurement process. See All Equipment Co.--Request for Reconsideration, B-230298.4, May 24, 1988, 88-1 CPD ¶ 493. The Regulations provide that the protester must file comments, file a statement requesting that the protest be decided on the existing record, or request an extension of the period for submitting comments, within 10 working days of receipt of the agency's report on the protest.

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4 C.F.R. § 21.3(k). It is not uncommon for protesters to lose interest in a protest upon reading the agency report, and we therefore require an expression of continued interest in the protest to avoid delay in the procurement. All Equipment Co.--Request for Reconsideration, B-230298.4, supra.

When Kinross filed its protest, we mailed Kinross a notice acknowledging our receipt of the protest and notifying the protester of its above-stated obligation under the Regulations. That notice informed Kinross of the due date for receipt of the agency report, September 8, 1988, and advised the protester that we would assume that Kinross received a copy of the report on the same day we receive it. The acknowledgment also advised the protester to notify us if the report was not received on time and warned that unless we heard from the protester by the 10th working day after the report was due, we would close our file without action. We received the agency's report on September 7, 1988.

Kinross failed to inform our Office within the required time period of its continued interest in the protest or of its failure to receive the agency report. We have consistently held that the protester's obligation to respond within the required timeframe is in no way altered by nonreceipt of the agency report. Science and Technology Institute, Inc., B-228327.2, Dec. 15, 1987, 87-2 CPD ¶ 594. Kinross first contacted our Office by telephone alleging nonreceipt of the agency's report on September 26, 18 calendar days and 12 working days after the due date of the agency report. Since Kinross did not give our Office any timely indication in writing of its continued interest in accordance with our Bid Protest Regulations, the protest is dismissed.



Ronald Berger
Deputy Associate
General Counsel