



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Poitra Construction Company--Reconsideration
File: B-233084.2
Date: December 21, 1988

DIGEST

Dismissal of protest for failure to file comments on agency report in timely manner is affirmed on reconsideration where, despite notice of its responsibility for doing so, protester did not notify General Accounting Office of late receipt of agency report within 10 working days after report was due.

DECISION

Poitra Construction Company requests reconsideration of our December 2, 1988 dismissal of its protest under Corps of Engineers invitation for bids (IFB) No. DACA45-88-B-0078. Poitra had protested its rejection due to inadequate individual sureties. We affirm the dismissal.

We dismissed the protest because Poitra failed to file its comments on the Corps' report or notify our Office of its continued interest in the protest within 10 working days after the report due date, as required under our Bid Protest Regulations, 4 C.F.R. § 21.3(k) (1988). Poitra requests reconsideration on the basis that it did not receive the report until November 18, and that its comments subsequently received in our Office on December 5 therefore were timely.

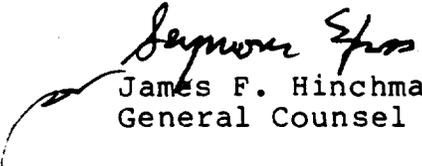
The filing deadlines in our Regulations, prescribed under the authority of the Competition in Contracting Act of 1984 (CICA), are designed to enable us to comply with the statute's mandate that we resolve protests expeditiously. 31 U.S.C. § 3554 (Supp. IV 1986); U.S. Shutter Co.--Reconsideration, B-219952.2, Jan. 15, 1986, 86-1 CPD ¶ 42. Our Regulations provide that the protester must file comments, request that the protest be decided on the existing record, or request an extension of the comment period, within 10 working days of receipt of the agency's report on the protest. 4 C.F.R. § 21.3(k).

044181/137596

The Regulations further provide, and we so inform protesters in our standard protest acknowledgment notice, that we assume the protester will receive its copy of the report on the same day we receive ours. The notice goes on to state the report due date, and advises that our Office should be notified if a copy of the report is not received by that date because "unless we hear from [the protester] within 10 working days of our receipt of the report, we will close our file without action."

As Poitra was advised in our acknowledgment notice in this case, the report was due on November 15; we received it on November 14. Poitra did not contact our Office concerning its nonreceipt of a copy of the report by the due date, or inform us of the date it actually received the report, until after we had dismissed the protest on December 2, which actually was 3 working days beyond the 10-working day filing period. The fact that we received Poitra's comments within 10 working days of the date the firm states it received the report does not warrant reversal of the dismissal, since Poitra never advised us of the late receipt, or of the firm's continuing interest in the protest, within the required period of time. Michael Industries, Inc.--
Reconsideration, B-230934.2, June 20, 1988, 88-1 CPD ¶ 588.

Our dismissal of the protest is affirmed.


James F. Hinchman
General Counsel