



Comptroller General
of the United States

1139132

Washington, D.C. 20548

Decision

Matter of: Image Contracting--Reconsideration

File: B-255632.2

Date: February 16, 1994

George W. Stringe for the protester.
Jennifer D. Westfall-McGrail, Esq., and Ralph O. White,
Esq., Office of the General Counsel, GAO, participated in
the preparation of the decision.

DIGEST

Where protest is dismissed for failure to file comments within 10 working days after receipt of agency report, protester's late receipt of report does not provide a basis for reconsidering dismissal when the protester did not notify the General Accounting Office that it did not receive the report until more than 10 working days after the report due date shown on the notice acknowledging receipt of the protest.

DECISION

Image Contracting requests that we reconsider our decision to dismiss its protest against the award of a contract by the Department of the Navy under request for proposals (RFP) No. N00164-93-R-0262. We dismissed the protest because the protester failed to file comments on the agency report within 10 working days after the report due date, as required by our Bid Protest Regulations, 4 C.F.R. § 21.3(j) (1993). The protester contends that we should reopen the protest because it responded to the agency report within 48 hours.

We deny the request for reconsideration.

Image Contracting filed its protest with our Office on November 8, 1993. We responded with a notice that acknowledged receipt of the protest and explained the procedures and deadlines for filing both the agency report and the protester's comments. Specifically, the notice stated that the agency report was due on December 9, and that the protester's comments were due 10 working days later. Consistent with 4 C.F.R. § 21.3(j), the notice also advised the protester that for purposes of determining when its response to the agency report would be due, we would

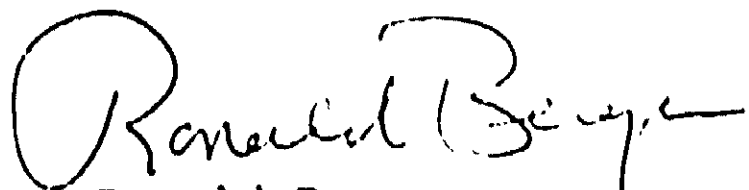
assume that it had received the report on the scheduled due date unless we were otherwise notified.

Our Office received the agency report on December 9. Since the protester never advised us to the contrary, we assumed that it received the report that day as well. Accordingly, we anticipated receipt of its comments by December 23. When we still had not received the comments nearly 1 month after receiving the report, we closed the case on January 3, 1994. One day later, on January 4, 1994, we received a December 27 letter from the protester requesting that the case be decided on the existing record. Although the protester's December 27 letter does not state when the report was received, its January 10 reconsideration request states that it prepared its December 27 letter within 48 hours of receiving the report.

The protester contends that we should reopen its protest because it prepared a response to the report within 10 days of its receipt of the agency report.

As we noted in our decision dismissing this protest, our Bid Protest Regulations provide that a protester's failure to file comments within 10 working days, or to file a request that the protest be decided on the existing record, or to request an extension of the time for submitting comments will result in dismissal of its protest. 4 C.F.R. § 21.3(j). The purpose of this and other filing deadlines in our Regulations is to enable us to resolve protests expeditiously, as mandated by the Competition in Contracting Act of 1984. It would be contrary to our goal of expeditious resolution for us to hold open protests on which the protester has neither filed comments nor requested an extension within the 10-day period. Thus, where a protester fails to communicate with our Office within 10 days after the report due date, its protest is properly dismissed and will not be reopened simply because the protester later asserts that it received the agency report late. Sea Sys., Inc.--Recon., B-252908.2, Sept. 16, 1993, 93-2 CPD ¶ 171.

The request for reconsideration is denied.



Ronald Berger
Associate General Counsel