



Comptroller General
of the United States

407207

Washington, D.C. 20548

Decision

Matter of: Cannon Instrument Company--Reconsideration
File: B-261042.2
Date: July 21, 1995

DECISION

Cannon Instrument Company requests that we reconsider our May 30, 1995, dismissal of its protest against the award of a contract by the Department of Transportation under invitation for bids (IFB) No. DTFH61-95-B-00045. We dismissed the protest because Cannon 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) (1995). The protester argues that we should reopen the protest because it filed comments within 10 working days after the date it actually received the report.

We deny the request.

Cannon filed its protest with our Office on April 11, 1995. 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 May 12, 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 Cannon 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 May 12. Since the protester never advised us to the contrary, we assumed the protester received the report that day as well. Accordingly, we anticipated that we would receive the protester's comments by May 26. When we did not receive the comments by May 30, we dismissed the protest pursuant to 4 C.F.R. § 21.3(j). On June 5, Cannon filed its comments with our Office.

Cannon argues that we should reopen its protest because it did not receive the agency report until May 22, and its comments were filed within 10 working days of that date. Cannon asserts that when it received the report on May 22,

064296/154914

it called our Office's case status line to discuss the due date of its comments and was informed that Memorial Day, Monday, May 29, was not a working day and therefore was not counted as part of the 10-day filing period. Cannon states that it was not notified that there was a problem with the timing of its comments.

As noted in our May 30 dismissal, our Regulations provide that a protester's failure to file comments within 10 working days, file a request that the protest be decided on the existing record, or request an extension of the time for submitting comments will result in the 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 report late. Image Contracting--Recon., B-255632.2, Feb. 18, 1994, 94-1 CPD ¶ 126. The fact that Cannon may have spoken with a person in our case status group about filing deadlines does not change our conclusion. Cannon acknowledged in a conversation with an attorney in our Office on June 6 that it did not tell the case status person that it received the report after the due date. Thus, this conversation in no way can be construed as notification to our Office of late receipt of the report, or as a request for or a granting of an extension of the comment period.

The request for reconsideration is denied.



Ronald Berger
Associate General Counsel