



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: MTM Motel Company

File: B-260080.5

Date: December 13, 1995

DECISION

MTM Motel Company protests the award of a contract under request for proposals (RFP) No. N62381-95-R-0001, issued by the Department of the Navy, Military Sealift Command, Atlantic, for lodging for civilian mariners assigned to the agency and visiting the facility in Bayonne, New Jersey, for administrative purposes, such as assignments, pay, training and other routine administrative actions. The protester argues that the agency improperly determined MTM to be nonresponsible.

We dismiss the protest because the protester failed to file its comments on the agency report within 10 working days after its receipt of the agency report, as required by our Bid Protest Regulations, 4 C.F.R. § 21.3(j) (1995).

The protester advised our Office that it had received the agency report on October 27. The protester submitted its comments on November 13. In the opening paragraph of those comments, the protester again advised our Office that it had received the report on October 27.

By letter dated November 24, the Navy submitted a request for our Office to dismiss MTM's protest on the ground that the protester had failed to file its comments within the 10-day period prescribed by our Bid Protest Regulations. The Navy provided a letter from Federal Express, verifying delivery of the agency report on October 26, rather than October 27 as the protester had advised our Office. Accordingly, the Navy noted, the protester should have filed its comments by November 9.

The protester's response to this motion acknowledges delivery of the report on October 26. However, the protester argues that its representative was absent from his office on that date. Distinguishing "delivery" of the report from "receipt," the protester argues that receipt of the report did not take place until October 27.

Under the Competition in Contracting Act of 1984, our Office has strict deadlines under which we must resolve protests. See 31 U.S.C. § 3554(a) (1988). The filing deadlines under our Regulations are to enable us to comply with this mandate,

while affording all parties a fair opportunity to present their cases. Applied Sys. Corp.-Recon., B-234159.2, Mar. 28, 1989, 89-1 CPD ¶ 319; Green Management Corp.-Recon., B-233598.2, Feb. 27, 1989, 89-1 CPD ¶ 208. Thus, our Regulations allow parties 10 working days to decide whether they are still interested in pursuing a protest, in the face of information in the agency report. Birch & Davis Assocs., Inc.-Protest and Recon., B-246120.3; B-246120.4, Apr. 20, 1992, 92-1 CPD ¶ 372.

Here, the record shows that the agency report was delivered and thus received on October 26. The protester did not file its comments, due on November 9, until November 13. The protester states that its representative was out of the office on October 26, and argues that its comments were timely filed within 10 working days after October 27, the day he returned to his office and "received" the report. We disagree. A protester's absence from his office on the date of delivery does not indefinitely delay "receipt," for purposes of our Bid Protest Regulations, until such time as he returns. See Discount Mach. & Equip., Inc.-Recon., B-239104.2, Aug. 6, 1990, 90-2 CPD ¶ 106. Otherwise, a party could absent himself from the place to which he has requested delivery of that report, to the detriment of the protest system as well as our ability to resolve the protest expeditiously. Since the protester's comments were filed more than 10 days after receipt of the agency report, the protester failed to comply with our filing requirements. See Piedmont Sys., Inc., B-249801, Oct. 28, 1992, 92-2 CPD ¶ 305.

The protest is dismissed.

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