

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

**FILE:** B-219581.2      **DATE:** October 11, 1985

**MATTER OF:** Westec Company--Request  
for Reconsideration

## DIGEST:

Dismissal of original protest for failure to file written comments on the agency report within 7 working days of report due date is affirmed, notwithstanding that protester asserts it received the report late and filed its comments within 7 days of that receipt, since protester failed in its duty to notify GAO that it did not receive the report by the due date.

Westec Company requests reconsideration of our dismissal of its protest, B-219581, under solicitation No. F64605-85-B-0031, issued by the Department of the Air Force for repairs to officers' housing at Hickam Air Force Base. We dismissed the protest because Westec failed to file its comments on the contracting agency's report within 7 working days after we received the report, as required by our Bid Protest Regulations, 4 C.F.R. § 21.3(e) (1985).

We affirm the prior dismissal.

Westec's original protest was filed on July 15, 1985, and our standard acknowledgment letter of the same date advised the protester's attorney that the contracting agency's report was due in our Office on August 19 and that we would assume that counsel received a copy of the report by that date. The protester's attorney was asked to notify our Office promptly if he did not receive a copy of the report by August 19 and was advised that he was required within 7 working days of receipt of the report to file comments or request a decision on the existing record or we would close our file on the protest. After our receipt of the agency's report, we did not hear from counsel for the protester within the time prescribed. Accordingly, we closed our file on September 3, 1985.

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In its request to reopen our file and consider the merits of the protest, counsel contends that his comments on the Air Force's report were timely because he did not receive a copy of the report until August 26; therefore, counsel for the protester contends that the deadline for filing comments was September 4. The fact that we received Westec's comments on September 4 does not warrant reversal of the dismissal since the comments or advice that the report had not been received by the due date was required to be furnished to this Office within 7 working days from August 19, the due date for the agency report. AFL-CIO Appalachian Council Inc.--Reconsideration, B-218090.2, May 10, 1985, 64 Comp. Gen. \_\_\_, 85-1 C.P.D. ¶ 528. Therefore, because we received no notice from counsel that he did not receive a copy of the agency report when due, our dismissal of the protest is affirmed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
General Counsel