

**DECISION**

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

**FILE:** B-219884.2

**DATE:** October 29, 1985

**MATTER OF:** Rampart Services, Inc.--  
Reconsideration

**DIGEST:**

Dismissal of original protest for failure to file comments on agency report or request a decision on the existing record within 7 days after receiving the report is affirmed since protester failed to comply with our Bid Protest Regulations.

Rampart Services, Inc. (Rampart), requests reconsideration of our dismissal of its protest, B-219884, under solicitation No. F02600-85-B-0047, issued by the Department of the Air Force. Rampart's protest challenged as unduly restrictive the bond requirement in the invitation for bids, a 100-percent small business set-aside, for aircraft fuel distribution services at Williams Air Force Base, Arizona. We dismissed the protest because Rampart did not file written comments on the Air Force's administrative report or a statement of continued interest in the protest within 7 days from the date the report was due.

We affirm the prior dismissal.

Rampart's original protest was filed August 14, 1985, and the Air Force's administrative report was received in our Office on September 19, the scheduled due date. Contrary to our filing requirements, Rampart did not file comments on the report or a request that we consider the protest on the basis of the existing record by September 30. Therefore, we issued a dismissal notice and closed our file on October 1.

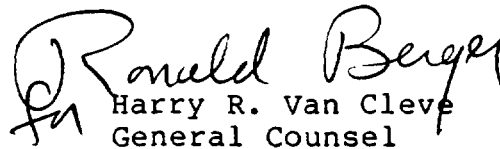
Rampart now contends that as a small company without easy access to legal advice, it "did not know that a rebuttal [to the agency report] would be critical to the GAO's ruling on the case." The protester's position is that rebuttal would serve no useful purpose because the agency report did not change, in any way, its belief that the bonding requirement for this procurement is restrictive of competition. Rampart complains that our decision to dismiss its original protest was based on a "minor technicality" but "the merits of the case warrant reconsideration and a final ruling."

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We disagree with the protester that our dismissal was based on a minor technicality. The acknowledgment letter sent to the protester on August 15, 1985, and our published regulations specifically provide that comments on the agency's report shall be filed with this Office within 7 days after receipt of the report by the protester and that failure to file comments or a statement requesting that the protest be decided on the existing record within the 7-day period will result in dismissal of the protest. 4 C.F.R. § 21.3(e) (1985). This requirement places a slight burden on the protester, after receiving the agency report, to advise us of its continued interest in having the protest resolved. Jowa Security Services Inc.--Reconsideration, B-219355.3, Oct. 18, 1985, 85-2 C.P.D. ¶ \_\_\_\_.

We require some statement of continued interest in a protest because protesters sometimes change their minds about pursuing their protests after receiving the agency report. See McGrail Equipment Company, Inc.--Reconsideration, B-211302.2, July 21, 1983, 83-2 C.P.D. ¶ 106. Absent an expression of continued interest, we have no way of knowing whether the protest still reflects a real controversy after the protester has received the agency report; it is our policy not to rule on academic issues. Jowa Security Service Inc.--Reconsideration, B-219355.3, supra.

We believe our regulations provide effective and equitable procedural standards which afford all parties a fair opportunity to present their case, with or without the assistance of an attorney, so that protests can be resolved in a reasonably diligent manner without undue disruption of the government's procurement process. J.M. Security Service, B-218207.2, May 3, 1985, 85-1 C.P.D. ¶ 498. Under these circumstances, reopening the file on this protest is not appropriate. See Jowa Security Services Inc.--Reconsideration, B-219355.3, supra.

  
Harry R. Van Cleave  
General Counsel