

DECISION



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

FILE: B-220073.3 **DATE:** January 30, 1986
MATTER OF: Ibex Ltd.--Reconsideration

DIGEST:

Request that protest file, closed due to protester's failure to comment on the agency's report, be reopened because agency report did not adequately apprise protester that it constituted the report required to be filed under our Bid Protest Regulations is denied where agency's response was identified as the report on the protest and no comments were filed within 7 working days of its receipt.

Ibex, Ltd., requests reconsideration of our dismissal of its protest concerning the rejection of its bid as nonresponsive under invitation for bids (IFB) No. N62474-84-B-4616 issued by the Department of the Navy. We closed the case because Ibex did not file its written comments to the Navy's protest report within the 7 day period prescribed by our Bid Protest Regulations, 4 C.F.R. § 21.3(e) (1985). We decline to reopen the case.

Ibex's original protest was filed on November 8, 1985 and the scheduled due date for the Navy's protest report on the matter was December 17. Our Office received the report on December 11 and Ibex indicates that it received its copy at approximately the same time. Ibex failed to file comments or request that we consider the protest on the basis of the existing record and, on December 30, we issued a dismissal notice and closed our file in the matter.

Ibex contends that the document received from the Navy failed to adequately apprise Ibex that it was the report contemplated by 4 C.F.R. § 21.3(c) of our Bid Protest Regulations. The Navy's report was a four-page letter addressed to our Associate General Counsel and Ibex indicates that it interpreted this letter as a response to a personal request for information. Ibex argues that the letter failed to indicate that it was the report required to be filed under 4 C.F.R. § 21.3(c) and furthermore, that the report failed to comply with this provision since it did not

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respond to all of the protest issues raised nor were there any documents attached as required by the regulation. Ibex also notes that it received the letter before the scheduled due date.

Under 4 C.F.R. § 21.3(c), the contracting agency is required to file a complete report on the protest within 25 working days from the date it receives notice of the protest. The regulation further provides that relevant documents, as appropriate, shall be included and that the report should be fully responsive to all allegations of the protest which the agency contests.

The Navy's submission in the first sentence clearly stated that it was being filed in response to our "request for a report on the protest of Ibex, Ltd" Although not addressing every issue raised by Ibex, the Navy focused on one of several bases upon which the Ibex bid was found nonresponsive. The agency argued that Ibex's bid was properly rejected as nonresponsive for that one reason alone and that the protest filed by the firm should be denied. We note that there is no requirement that the agency specifically cite the regulation in filing its report and, in any event, we find that the Navy's response was identified in such a manner so as to place Ibex on notice that it constituted the agency's report on the protest filed by the firm.

Moreover, despite Ibex's allegations regarding the adequacy of the report, Ibex was not entitled to idly await the receipt of a "satisfactory" report to the detriment of the expeditious resolution of protests as required by the Competition in Contracting Act, Pub. L. No. 98-369, 98 Stat. 1175 (1984). See Del-Jen, Inc.--Reconsideration, B-218136.3, June 10, 1985, 85-1 CPD ¶ 659. Our acknowledgment notice of Ibex's protest advised Ibex that it should receive the report by December 17, that we would assume it would receive the report when we received ours and that unless we heard from the firm by the 7th working day thereafter, we would close our file. If Ibex had contacted our Office during this time period, as our notice advised, any questions it had regarding the report submitted by the Navy would easily have been clarified.

In addition, we note that our dismissal notice was sent after the protester's comment period from the scheduled due date of the agency's report had expired. Therefore, had Ibex not received any report from the Navy as the protester alleges, Ibex was required to notify our Office of this fact within the 7 day period. AAA Engineering & Drafting, Inc.--Reconsideration, B-218283.2, May 28, 1985, 85-1 CPD ¶ 607.

Since Ibex neither submitted comments on the Navy's report nor advised our Office within the 7 day period of its alleged nonreceipt, our dismissal of the protest is affirmed.

fa *Seymour E. Van*
Harry R. Van Cleve
General Counsel