



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Total Maintenance, Inc.--Reconsideration  
File: B-227899.2  
Date: August 28, 1987

### DIGEST

Dismissal of protest for failure to submit timely comments on the agency report is affirmed, where the protester did not fulfill its obligation to notify the General Accounting Office, within the required timeframe, that it received the report late.

### DECISION

Total Maintenance, Inc. (TMI), requests that we reopen our file and consider on the merits its protest of the Department of the Air Force's decision that the proposal TMI submitted in response to request for proposals (RFP) No. FO4611-87-R-0020 was technically unacceptable. We dismissed the protest because we did not receive TMI's comments responding to the Air Force's report on the protest, or a statement of continued interest, within 7 working days after the date scheduled for receipt of the report.

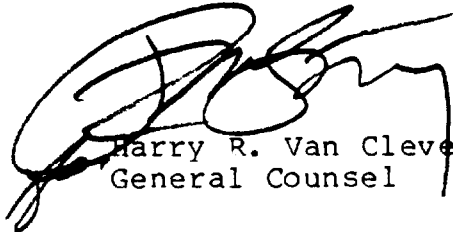
In its request for reinstatement, TMI argues that it did not receive the agency report until after the scheduled due date, and therefore should have had more time to comment.

Our Bid Protest Regulations clearly state that after receiving the agency report, the protester must indicate continued interest in pursuing the protest or face dismissal of the protest. 4 C.F.R. § 21.3(e) (1987). When TMI's protest was filed we mailed TMI a notice acknowledging receipt and stating that under 4 C.F.R. § 21.3(e) a protester, within 7 working days of receipt of the agency report, must submit written comments or advise our Office to decide the protest on the existing record. The notice included the date the report was due--August 3, 1987--and advised the protester that we would assume that TMI received a copy of the report on the scheduled due date. The acknowledgment also advised the protester to notify us if the report was not received on time and warned that unless

we heard from the protester by the 7th working day after the report was due, we would close our file.

Although TMI argues that its failure to file comments on time was due to its late receipt of the Air Force report, the fact is that TMI failed to fulfill its obligation to advise us within the 7 working day period that it had not received the agency report by the due date. Had TMI timely advised us of the nonreceipt we would not have dismissed the protest.

Since TMI failed to express continued interest in the protest within the required timeframe, we will not reopen the file. See F.H. Stoltze Land & Lumber Co.--Request for Reconsideration, B-225614.2, Mar. 19, 1987, 87-1 C.P.D. ¶ 313. The dismissal is affirmed.



Harry R. Van Cleave  
General Counsel