



The Comptroller General
of the United States

Washington, D.C. 20548

Rebach FL

Decision

Matter of: Science and Technology Institute, Inc.

File: B-228327.2

Date: December 15, 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 had not received the report.

DECISION

Science and Technology Institute, Inc. (STI) requests that we reopen our file and consider on the merits its protest of the Department of Transportation's (DOT) decision that the proposal STI submitted in response to request for proposals (RFP) No. DTH61-87-R-00066 was technically unacceptable. We dismissed the protest because we did not receive STI's comments responding to DOT'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, STI argues that it did not receive the agency report and therefore should not have had its protest dismissed.

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 STI's protest was filed we mailed STI 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--November 4, 1987--and advised the protester that we would assume that STI 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

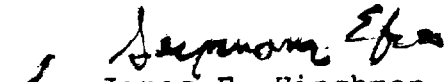
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we heard from the protester by the 7th working day after the report was due, we would close our file.

Although STI argues that its failure to file comments on time was due to its failure to receive DOT's report, the fact is that STI 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 STI timely advised us of the nonreceipt we would not have dismissed the protest.

Since STI 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 CPD ¶ 313.

The dismissal is affirmed.


James F. Hinchman
General Counsel