



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Detroit Armor Corporation--Reconsideration
File: B-231960.2
Date: October 31, 1988

DIGEST

Dismissals of original protest for failure to file comments on agency report in timely manner is affirmed, even though protester received report after date it was due, where, despite notice of its responsibility, protester allowed lapse of more than 10 working days after report was due before either notifying the General Accounting Office of late receipt or filing comments.

DECISION

Detroit Armor Corporation requests reconsideration of our September 7, 1988, dismissal of its protest under invitation for bids (IFB) No. M00264-88-B-0007, issued by the United States Marine Corps. We dismissed the protest because Detroit Armor failed to file with our Office its comments in response to the agency report or notify our Office of its continued interest in the protest within the 10 working-day period required by our Bid Protest Regulations, 4 C.F.R. § 21.3(k) (1988).

Detroit Armor requests reconsideration on the basis that it received the agency report on August 19, 1988, that it sent its comments on the report by Federal Express and, but for the refusal of our Office to accept receipt on the due date, September 2, 1988, its comments would have been timely filed.

We affirm our prior dismissal.

The filing deadlines in our regulations are prescribed under the authority of the Competition in Contracting Act of 1984 (CICA). Their purpose is to enable us to comply with the

043737 / 137203

statute's mandate that we resolve bid protests expeditiously. 31 U.S.C. § 3554 (Supp. IV 1986); U.S. Shutter Co.--Reconsideration, B-219952.2, Jan. 15, 1986, 86-1 CPD ¶ 42. The Regulations provide that the protester must file comments, file a statement requesting that the protest be decided on the existing record, or request an extension of the period for submitting comments within 10 working days of receipt of the agency's report on the protest. 4 C.F.R. § 21.3(k). The Regulations further provide, and we so inform the protester in our standard protester acknowledgment notice, that we assume the protester receives a copy of the report on the same day we receive it. The notice therefore informs the protesters of the date on which the agency report is due, and advises that our Office should be notified if a copy of the report is not received by that date because "unless we hear from [the protester] within 10 working days of our receipt of the report, we will close our file without action."

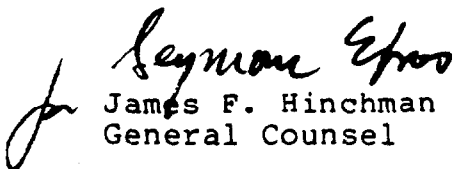
The report in this case was due on August 16, 1988, and we received it on that date. The protester, however, did not contact our Office concerning its nonreceipt of a copy of the report by that date or inform us of the date it actually received the report until after we had dismissed the protest on September 7, the day after the 10th working day.

Detroit Armor's request for reconsideration indicates that it received a copy of the agency's report on August 19, 1988, and, therefore, it argues the comments were due on September 2, but that receipt was refused because the package had no room number on it.

As noted above, our acknowledgment of the protest advised that the report was due on August 16, 1988. Ten working days from that date is August 30, 1988. Therefore, dismissal of the protest for failure to receive comments or a statement of continued interest from Detroit Armor by that date was proper under 4 C.F.R. § 21.3(k), supra. Michael Industries, Inc.--Reconsideration, B-230934.2, June 20, 1988, 88-1 CPD ¶ 588.

In view thereof, the circumstances concerning nonreceipt of Detroit Armor's package on September 2, 1988, are irrelevant.

The dismissal is affirmed.


James F. Hinchman
General Counsel