



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Prio-Leau Culinary Services, Inc.--
Reconsideration

File: B-236373.6

Date: January 23, 1990

DIGEST

Protester's late receipt of agency report is not a basis for reopening protest dismissed for failure to file comments or express continued interest in the protest within 10 working days after receipt of the report; acknowledgment notice specifically informed protester of the need to advise the General Accounting Office of late receipt of report.

DECISION

Prio-Leau Culinary Services, Inc., requests reconsideration of our January 5, 1990, dismissal of its protest under Army request for proposals (RFP) No. DABT47-89-R-0031. We dismissed the protest because Prio-Leau failed to file its comments on the agency report within 10 working days after the December 14, 1990, report due date, as required by our Bid Protest Regulations, 4 C.F.R. § 21.3(k) (1989).

The protester concedes that its comments were not filed in our Office until January 8, 1990, which is 5 working days after the December 29 due date, but argues that this delay was justifiable since it did not receive the agency's report until January 2. The protester's late receipt of the report is not a basis for reopening the protest.

The filing deadlines in our Regulations are prescribed under the authority of the Competition in Contracting Act of 1984; their purpose is to enable us to comply with the statute's mandate that we resolve protests expeditiously. 31 U.S.C. § 3554(a) (Supp. V 1987); Green Management Corp.--Recon., B-233598.2, Feb. 27, 1989, 89-1 CPD ¶ 208. To avoid delay in the resolution of protests, our Regulations provide that a protester's failure to file comments within 10 working days, or to file a request that the protest be decided on the existing record, or to request an extension of the time for submitting comments, will result in dismissal of the

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protest. 4 C.F.R. § 21.3(k). But for this provision, a protester could idly await a copy of the report for an indefinite time, to the detriment of the protest system and our ability to resolve the protest expeditiously. Id.

The protester was on actual notice of the December 14 report due date from our letter acknowledging the protest, which also advised that our Office must be promptly notified if the protester did not receive a copy of the report by the due date, because otherwise we would assume that the protester received a copy of the report on the date we received it. See Harrell-Patterson Contracting, Inc.--Request for Recon., 65 Comp. Gen. 330 (1986), 86-1 CPD ¶ 180. We received the Army's report on the December 14 due date. The protester's comments thus were due December 29. We received no communication from the protester, however, until we received its comments on January 8, after our file already was closed. In these circumstances, the protest was properly dismissed and will not be reopened. See IBI Security Service, Inc., B-233740.2, Mar. 6, 1989, 89-1 CPD ¶ 242.

The dismissal is affirmed.

for *James F. Hinchman*
James F. Hinchman
General Counsel