



Comptroller General  
of the United States

Washington, D.C. 20548

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## Decision

**Matter of:** La Quinta Roofing, Inc.--Reconsideration

**File:** B-250901.2

**File:** January 11, 1993

Lesa Christenson, Esq., Hillyer & Irwin, for the protester, David Hasfurther, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Dismissal of the original protest because the protester failed to respond to the agency report is affirmed notwithstanding the protester's explanation that the failure was inadvertent and was based on its belief that the filing of comments was not necessary since General Accounting Office (GAO) Bid Protest Regulations require response to agency report in order for GAO to further consider protest.

### DECISION

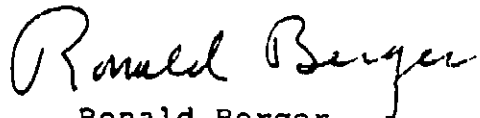
La Quinta Roofing, Inc. requests reconsideration of our December 9, 1992, dismissal of its protest against the award of a contract to any bidder other than itself under invitation for bids (IFB) No. DACA09-92-B-0025, issued by the Department of the Army. We dismissed the protest because La Quinta failed to submit within 10 working days after the due date for the agency report either comments on the agency report or a request that the protest be considered on the basis of the existing record. Bid Protest Regulations, 4 C.F.R. § 21.3(j) (1992). We affirm our dismissal.

La Quinta filed its protest with our Office on October 14, 1992. By notice of October 15, we requested a report from the agency with a scheduled due date of November 19. The protester also was advised in an October 15 letter acknowledging its protest that we had requested an agency report and the November 19 report due date. The acknowledgment letter further advised La Quinta that its failure to respond in writing with comments or a request that the protest be considered on the basis of the existing record to the agency report would result in the dismissal of

its protest. On November 19, the agency submitted a report on the protest in which it requested that the protest be denied. The protester did not respond to the agency report, and we dismissed its protest on December 9, the 13th working day following the scheduled report due date as specified in our acknowledgment letter of the protest, which, as was previously noted, was sent to La Quinta.

La Quinta argues that its failure to respond to the report was inadvertent and that it did not believe that the filing of comments was necessary. However, our acknowledgment letter to the protester specifically advised that a response to the report was required in order for our Office to further consider the protest. Our Bid Protest Regulations provide that the failure of the protester to respond in writing to an agency report will result in the dismissal of the protest. 4 C.F.R. § 21.3(j). Absent a timely written request to consider the protest on the existing record or the filing of comments on the report, we have no way of knowing whether the protester has continued interest in the protest. See Access Flight Servs.--Recon., B-242644.2, Apr. 8, 1991, 91-1 CPD ¶ 359.

We affirm our dismissal.



Ronald Berger  
Associate General Counsel