



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Boudreau Computer Services, Ltd.--
Reconsideration

File: B-252280.2

Date: May 6, 1993

Raymond R. Johnson for the protester.
M. Penny Ahearn, Esq., and John M. Melody, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Dismissal of protest is affirmed where protester's comments on agency report or its expression of continued interest in the protest were not filed within 10 working days after receipt of the agency report. Letter filed in response to agency request for summary dismissal did not constitute comments on agency report as contemplated by Bid Protest Regulations, since dismissal request was not agency report.

DECISION

Boudreau Computer Services, Ltd. requests reconsideration of our dismissal of its protest under request for proposals No. F09603-91-R-57046, issued by the Department of the Air Force for computer repair. We dismissed Boudreau's protest because the protester failed to file with our Office its comments on the agency report within 10 working days after the report due date.

We affirm the dismissal.

By letter dated February 8, 1993, and filed with our Office on February 9, Boudreau protested the rejection of its proposal and award of a contract to Haltronics. On February 10, we sent Boudreau a standard acknowledgment notice informing the protester of the requirements under our Bid Protest Regulations, that within 10 working days of receipt of the agency's report on the protest, the protester's written comments (responding to the report or requesting that the protest be decided on the existing record) be submitted to our Office. 4 C.F.R. § 21.3(j) (1993). The notice further advised that the due date for the agency report was March 17, that the protester should notify our Office at that time if it did not receive the report, and that unless we heard from the protester within

10 working days of our receipt of the report, we would dismiss the protest.

On February 18, the Air Force requested summary dismissal of the protest, arguing that Boudreau was not an interested party. By letter dated February 22, and filed with our Office on February 26, Boudreau disagreed with the agency's dismissal argument. On February 25, our Office notified the protester by facsimile that we denied the agency's request for dismissal.

On March 15, before the March 17 due date, the Air Force timely filed its agency report in our Office. The report cover letter stated that "this is in response to your request for a report on the protest (B-252280) of Boudreau Computer Services, Ltd." As of April 2, 12 working days after Boudreau's assumed receipt of the agency report on March 17, we had received no comments or other communication from Boudreau. We therefore dismissed its protest.

Boudreau argues in its reconsideration request that its February 22 letter in response to the agency's request for summary dismissal should be considered its comments on the agency report. Since that letter was received in our Office on February 26, before the March 31 comment deadline, Boudreau reasons, it warrants reinstating its protest.

Boudreau's argument provides no basis to reopen its protest. The agency's half-page, four-sentence letter requesting summary dismissal was designated as submitted for that purpose; it nowhere indicated that it constituted the agency report, and did not address the merits of Boudreau's protest. We thus do not think this letter reasonably could have been taken by Boudreau to be the agency report. It follows that Boudreau's February 22 letter, drafted and filed with our Office before the Air Force filed its report on March 17, could not be considered comments on the report. Since Boudreau, upon receiving the agency report, did not file comments or an expression within 10 working days, its protest was properly dismissed and will not be reopened. See DIT-MCO Int'l.--Recon., B-246451.2, Apr. 27, 1992, 92-1 CPD ¶ 395.

The dismissal is affirmed.



Robert M. Strong
Associate General Counsel