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United States General Accounting Office
Washington, DC 20548Office of
General CounselIn Reply
Refer to:

B-193537

DEC 30 1976

*[Failure of Contracting Officer to Respond to Request for Contract Modification]*Mr. Michael J. Conlon
O'Connor & Hannan
1747 Pennsylvania Avenue, N.W.
Suite 600
Washington, D.C. 20006

Dear Mr. Conlon:

This is in response to your letter of November 13, 1976, requesting information concerning the proper appeal procedure under the Disputes Clause of Interior Department Contract No. 14-08-0001--16259. In that letter, you stated that your client filed a request for a contract modification with the contracting officer (C.O.) and the C.O. appeared to be delaying in making a decision, despite numerous requests to do so. You asked whether there is a time limit under which the C.O. must respond to such a request, or whether his failure to respond constitutes a decision appealable to the Department of Interior Board of Contract Appeals (BCA).

Our Office no longer reviews decisions rendered under the "Disputes" clause. S&F Contractors, Inc., 406 U.S. 1 (1972); Hugh Brasington Contracting Company, B-187022, September 16, 1976, 76-2 CPD 243. However, in Frank Briscoe Company, Inc., B-161283, March 16, 1976, 76-1 CPD 177, we stated:

"...generally a contracting officer's failure to issue a 'final decision' does not preclude appeal to the Board of Contract Appeals. E.g. Leader Mfg. Co., ASPCA 4416, 58-2 BCA 5 1877."

In addition to the Leader case, you might want to examine Consolidated Diesel Corporation, ASPCA No. 4231, 57-2 PCA 5 1446; and A. Dubois & Sons, Inc., ASPCA No. 3280, 57-1 PCA 5 1306.



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I hope this information may be of some assistance to you.

Sincerely your,

ROBERT M. STRONG

Robert M. Strong
Assistant General Counsel