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DECISION

THE COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-220988.2 **DATE:** January 24, 1986

MATTER OF: Harrell-Patterson Contracting, Inc.--Request for Reconsideration

DIGEST:

Dismissal of original protest, for failure to timely comment on agency report, is affirmed despite protester's assertion that it received the report late (after the due date of the report to GAO) because under our Bid Protest Regulations the protester should have notified GAO that it had not received the report by the due date.

Harrell-Patterson Contracting, Inc. (HPC), requests reconsideration of our dismissal of its protest, B-220988, under invitation for bids (IFB) No. N62470-85-B-4084, issued by the Atlantic Division, Naval Facilities Engineering Command (Navy), for maintenance and repair services at the United States Naval Station, Guantanamo Bay, Cuba. HPC contended that serious improprieties, including the disclosure of inside government information to favored contractors, had occurred in the bidding process.

We dismissed the protest on December 23, 1985, because HPC failed to file its written comments on the Navy's report or a statement of continued interest in the protest within 7 working days after receipt of the report, as required by our Bid Protest Regulations, 4 C.F.R. § 21.3(e) (1985).

We affirm the dismissal.

HPC's original protest was filed on November 1, 1985. Our standard acknowledgment notice, dated the same day, advised HPC that the Navy's report was due in GAO on December 10, 1985, and that we would assume that HPC received a copy of the report by that date. The acknowledgment notice advised HPC to notify GAO promptly if it did not receive a copy of the report by December 10, 1985, and further advised that HPC was required to file comments or a request for a decision on the existing record within 7 working days of receipt of the report. The 7-day comment period ended December 19, 1985. The notice specifically warned HPC that, unless we heard from it by the 7th working day, we

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would close our file on its protest. Although we received the Navy's report on the December 10, 1985, due date, we did not hear from HPC within the prescribed time. Consequently, HPC was notified of our dismissal of its protest.

In its request for reinstatement of its bid protest, counsel for HPC contends that it did not receive the Navy report until December 13, 1985, and that we should consider its comments, which were filed at GAO on December 24, 1985. In this connection, HPC's counsel points out that the company protested to our Office and that it did not identify itself as counsel of record until the firm filed comments on the agency report. However, this does not relieve the protester and its counsel of the obligations under the regulation.

Our receipt of HPC's comments within 7 days of HPC's actual receipt of the Navy's report does not warrant reversal of the dismissal, since HPC was required to either file its comments or advise GAO that it had not received the report within 7 working days from the December 10, 1985, due date for delivery of the Navy report to GAO and to HPC. AFL-CIO Applachian Council, Inc.--Reconsideration, B-218090.2, May 10, 1985, 64 Comp. Gen. ¶ ____, 85-1 C.P.D. ¶ 528; NJCT Corporation--Reconsideration, B-219114.2, Nov. 4, 1985, 85-2 C.P.D. ¶ 515. Since we received no notice from HPC that it had not received a copy of the Navy report when due, we affirm our dismissal of the original protest.

for Seymour Efros
Harry R. Van Cleve
General Counsel