DOCUMENT RESUME

01655 - [A1051931]

[Request for Reconsideration Because of Factual Misinterpretation]. B-188070. April 4, 1977. 2 pp.

Decision re: Didactic Systems, Inc.; by Robert F. Keller, Acting Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).
Contact: Office of the General Counsel: Procurement Law I.
Budget Function: General Government: Other General Government (806).
Organization Concerned: Department of Agriculture.
Authority: 4 C.F.R. 20.

The protester requested reconsideration of a decision finding the original protest to be untimely, based upon the contention that the decision factually misinterpreted the point at which the basis for the protest arose for purposes of determining the timeliness under bid protest procedures. The decision was affirmed, since the language of the letter, upon which the decision was based, imparted substantially the same information as to the reasons the proposal was determined to be unacceptable as the later letter upon which the request for reconsideration is based. (Author/SC)

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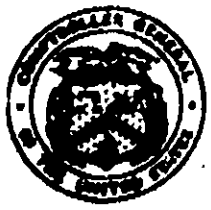
DECISION



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

FILE: B-188070 DATE: April 4, 1977

MATTER OF: Didactic Systems, Inc.--Request for Reconsideration

DIGEST:

Where request for reconsideration is based upon contention that prior decision factually misinterpreted when basis for protest arose for purposes of determining timeliness under Bid Protest Procedures, decision is affirmed when language of letter, upon which decision was based, imparted substantially same information as to reasons proposal was determined unacceptable as later letter upon which request for reconsideration is based.

Didactic Systems, Inc. (Didactic), requests reconsideration of our decision of February 16, 1977, that found its protest against award of a contract by the Department of Agriculture (Agriculture) to another firm under request for proposals RFP-00-76-R-38 untimely submitted under our Bid Protest Procedures (4 C.F.R. part 20 (1976 ed.)) and not for consideration on its merits.

In our February 16 decision, we concluded that the basis for Didactic's protest was known, or should have been known, upon receipt of an October 22, 1976, letter from Agriculture, which initially informed Didactic of the reasons for the exclusion of its proposal from the competitive range. Since Didactic's protest was not filed until December 27, 1976, we concluded that the protest was untimely.

Didactic maintains that the basis for its protest was not known until it received Agriculture's December 16 letter which, in Didactic's opinion, provided the first indication of the specific reason why the proposal was considered unacceptable. The following comparison of the substance of the two letters demonstrates, we believe, that both letters impart similar and sufficient information upon which to lodge a protest:

October 22 letter	December 16 letter
"* * * contractor's current proposal is vague and broad * * *"	"The proposal [was] sketchy and not complete as to details * * *"
"The use of off-the-shelf material is not an acceptable type of curriculum and there is no indication * * * as to how this material would be modified to relate to USDA."	"The attachment of your course catalogue led the team to believe that in lieu of explanatory details, the off-the-shelf course in the catalogue would be used."

For the purposes of discerning the basis for exclusion of Didactic's proposal from the competitive range, we fail to see any real difference in the substance of the two letters. Two basic reasons appear in each letter: 1) the proposal was not sufficiently complete; and 2) the proposal did not indicate how the course material would be tailored for Agriculture's need. We do not understand why the term "sketchy and not complete" imparts any more specificity than "vague and broad." Likewise, we find no substantive distinction between the "use of off-the-shelf material is not acceptable" and the meaning attached to the use of the "off-the-shelf course in the catalogue * * *."

Accordingly, we affirm our position in the February 16 decision that the basis for Didactic's protest was known, or should have been known, upon receipt of the October 22 letter. Therefore, the protest was untimely filed and will not be considered on its merits.

Acting Comptroller General
of the United States