

DOCUMENT RESUME

03255 - [A2233353]

[Request for Reconsideration of Refusal to Review a Matter before a Court of Competent Jurisdiction]. B-189280. August 8, 1977. 2 pp.

Decision re: Volpe Construction Co., Inc.; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).
Contact: Office of the General Counsel: Procurement Law II.
Budget Function: General Government: Other General Government (806).

Organization Concerned: Massachusetts Bay Transportation
Authority; Urban Mass Transportation Administration.
Authority: B-188602 (1977).

The protester requested reconsideration of a decision which concluded that, as a matter of policy, GAO would not review a matter in which the material issues involved were before a court of competent jurisdiction and the court had not expressed an interest in receiving GAO's views in the matter. The prior decision will not be reconsidered because the request for reconsideration advances no new facts or legal arguments which would provide a basis for modification or reversal. The request for an informal conference in connection with reconsideration of the prior decision is denied since no useful purpose would be served. (Author/SC)

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DECISION



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

*Byyle
Proc II*

FILE: B-189280

DATE: August 8, 1977

MATTER OF: The Volpe Construction Co., Inc.--Reconsideration

DIGEST:

1. Prior decision--declining to consider matter before court of competent jurisdiction--will not be reconsidered because request for reconsideration advances no new facts or legal arguments which would provide basis for modification or reversal.
2. Request for informal conference in connection with reconsideration of prior decision--declining to consider matter before court of competent jurisdiction--is denied since no useful purpose would be served.

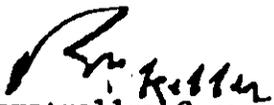
The Volpe Construction Co., Inc. (Volpe), requests reconsideration of our decision in The Volpe Construction Co., Inc., B-189280, July 6, 1977, which concluded that, as a matter of policy, our Office would not review a determination of the Massachusetts Bay Transportation Authority (grantee) and concurrence by the Urban Mass Transit Administration (grantor) concerning a mistake in bid because the material issues involved are before a court of competent jurisdiction and the court has not expressed an interest in receiving our views.

Volpe believes that the following additional facts should persuade us to change our policy and consider the matter on the merits: (1) the grantee is about to award or has awarded the contract to another bidder; and (2) the pending litigation is not likely to be resolved immediately resulting in costly delay and considerable hardship to Volpe. Volpe also specifically requests an informal conference on the matter.

The bases advanced by Volpe for reconsideration were foreseeable consequences of the dispute at the time Volpe elected to file suit in State court in Massachusetts and similar consequences are inherent in all matters of this nature. We have considered these consequences in establishing our policy and, therefore, we are not persuaded to change that policy in this case. Since, in essence, Volpe has provided no additional facts or legal arguments, we must decline to

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reconsider our July 6, 1977, decision. Further, since Volpe's request for an informal conference on the matter would serve no useful purpose, it is denied (see Plaza de las Armas, Inc., B-188602, June 30, 1977, 77-1 CPE 468).


Deputy Comptroller General
of the United States