

DOCUMENT RESUME

04718 - [B0105020]

[Request for Reconsideration of Untimely Protest]. B-188905.
January 5, 1978. 2 pp.

Decision re: CDI Marine Co.; by Paul G. Dembling (for Elmer B. Staats, Comptroller General).

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law I.

Budget Function: National Defense: Department of Defense -
Procurement & Contracts (058).

Organization Concerned: Department of the Navy: Naval Supply
Center, Charleston, SC; M. Rosenblatt & Son, Inc.

Authority: Small Business Act (15 U.S.C. 631 et seq.). A.S.P.R.
1-706.5. 4 C.F.R. 20.2(b) (1). 4 C.F.R. 20.9(a). B-187645
(1577).

A company requested reconsideration of the denial of its untimely protest concerning the number of bidders on a small business set-aside. The protester presented no new facts and merely reiterated the arguments previously presented; no basis was found for reconsideration. (RRS)

DECISION



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

04718

FILE: B-188905 DATE: January 5, 1978

MATTER OF: CDI Marine Company--Request for
Reconsideration

DIGEST:

Request for reconsideration is denied where protester merely reiterates its prior arguments and does not indicate any error of fact or law in prior decision.

CDI Marine Company (CDI) requests reconsideration of our decision in CDI Marine Company, B-188905, November 15, 1977, which denied its protest of the proposed award of a contract to M. Rosenblatt & Sons, Inc., for design services for the Supervisor of Shipbuilding, Jacksonville, Florida, under request for proposals (RFP) No. N00612-76-R-0051, issued by the Naval Supply Center, Charleston, South Carolina.

The solicitation was issued on May 11, 1976, as a 100-percent set-aside for small business, with a closing date for receipt of initial proposals of June 18, 1976. It was not until April 22, 1977, that CDI protested to our Office.

CDI protested the decision to set aside the procurement because it alleged that there was not a reasonable expectation that offers would be obtained from a sufficient number of responsible small business concerns to insure that award would be made at reasonable prices as required by ASPR § 1-706.5 (1976 ed.). We held that this part of the protest was untimely under our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(1) (1976), because it was filed after the closing date for receipt of initial proposals.

CDI also argued that the small business price received under the RFP was unreasonable requiring cancellation and resolicitation on an unrestricted basis. The basis for CDI's allegation that the price received was unreasonable was that it exceeded the Government estimate by 22 percent and was an average of 17 percent higher than the price

B-188905

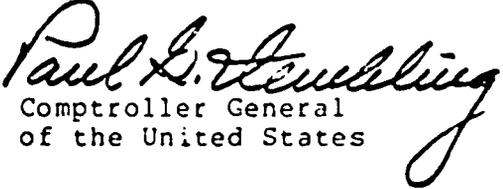
offered by other qualified firms. We held that under the Small Business Act, 15 U.S.C. § 631, et seq. (1970), the Government could pay a premium price to small business concerns on restricted procurements in order to implement the policy of Congress. We also held that simply because an offer was higher in price than other offers or the Government estimate did not necessarily mean that the quoted price was unreasonable and that determinations of price reasonableness require a degree of discretion and will be sustained by our Office barring bad faith or fraud.

CDI also implied in its protest that, since there was only one offeror left in the competitive range that qualified as a small business, the procurement was not competitive and was tantamount to a sole-source award. We held that the contracting activity could properly make an award under a total small business set-aside even where only one offeror which qualified as a small business was determined to be in the competitive range. Accordingly, we found no legal objection to the proposed award and denied CDI's protest.

After carefully considering CDI's request for reconsideration, we find that it essentially reiterates the facts and arguments previously made which were thoroughly considered by our Office in making the November 15, 1977, decision. CDI has not presented evidence demonstrating any error of fact or law in the original decision. Therefore, we find there is no basis for our reconsidering this matter. See Bunker Ramo Corporation--Request for Reconsideration, B-187645, August 17, 1977, 77-2 CPD 124; 4 C.F.R. § 20.9(a) (1977).

Accordingly, our prior decision is affirmed.

For the


Comptroller General
of the United States