

6802
DECISION



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

FILE: B-190464

DATE: June 22, 1978

MATTER OF: United Lighting and Ceiling Corporation--
Reconsideration

DIGEST:

Decision dismissing subcontractor's protest as not for consideration under Optimum Systems, Inc. standards is affirmed where records pertaining to protest filed by a prospective prime contractor's supplier do not reveal bad faith on agency's part.

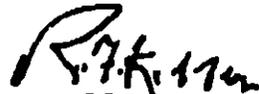
United Lighting and Ceiling Corporation (United) requests reconsideration of our decision, United Lighting and Ceiling Corporation, B-190464, April 4, 1978, 78-1 CPD 267 dismissing its protest. We concluded that United's protest, as one filed by a prospective subcontractor, was not for consideration under Optimum Systems, Inc., 54 Comp. Gen. 767 (1975), 75-1 CPD 166 because the Government's (General Services Administration (GSA)) involvement was directed to the selection of the equipment offered rather than a particular subcontractor. It was our view that this protest concerned a matter of contract administration and was not the type of subcontract protest where we will assume jurisdiction absent a showing of fraud or bad faith on the part of the agency.

United argues that we should take jurisdiction since it can now show that GSA did not act in good faith in evaluating United's portion of the prime contractor's technical proposal. United cites documents recently made available by GSA which show that, as the result of a protest filed on November 4, 1976 by a firm related to another prospective prime contractor, GSA determined that United's fixture should be evaluated by an independent testing laboratory. In this evaluation United insists stricter standards were applied to its fixture than in the initial evaluation.

We have reviewed the materials relating to the November 4 protest to GSA, which alleged that the lighting portion of the prime contractor's technical proposal was not acceptable, and we do not agree that they reveal bad faith on the part of GSA. It appears that the agency evaluated the protest and denied it. During that evaluation it considered that it would be appropriate to have an independent testing laboratory conduct the final acceptance tests under the contract. As of that time United had not yet provided the data needed for final acceptance under the prime contract. We find nothing improper with this determination, nor do we believe the record of the testing of United's fixture either after the award of the prime contract or before that award evidences bad faith.

Further, United reiterates its contentions regarding the involvement of GSA in the initial approval of United's technical proposal and complains about GSA's allegedly erroneous estimate of the life cycle cost of relamping United's 3450 lumen lamp fixture. As we held in our initial decision GSA's involvement concerned the acceptability of the equipment offered and, as such, its involvement does not constitute the type of participation which justifies our review of the matter.

Our prior decision is affirmed.


Acting Comptroller General
of the United States