

DOCUMENT RESUME

08112 - [C3348431]

[Protest against Allowing Bid To Be Withdrawn]. B-192346.
November 27, 1978. 2 pp.

Decision re: E. Walters Co., Inc.; by Robert F. Keller, Deputy
Comptroller General.

Contact: Office of the General Counsel: Procurement Law I.
Organization Concerned: Department of the Army: Army Arsenal
Research and Development Command, Dover, NJ; AAI Corp.
Authority: 4 C.F.R. 20. Defense Acquisition Regulation 2-406.3.

A company protested against the agency's allowing the
apparent low bidder to withdraw its bid because of an error, and
it requested reconsideration of a decision which stated that the
bid could be withdrawn. The request for reconsideration was
untimely since it was filed more than 10 days after the basis
for reconsideration was known. (HTW)

DECISION

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

8431

FILE: B-192346

DATE: November 27, 1978

MATTER OF: E. Walters & Company, Inc. -
Reconsideration

DIGEST:

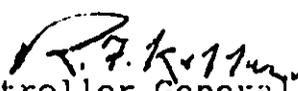
Request for reconsideration of prior decision is untimely filed under section 20.9(b) of GAO Bid Protest Procedures since it was filed more than 10 days after the basis for reconsideration was known to requester. Therefore, request for reconsideration is denied.

By letter dated November 1, 1978, filed with our Office on November 6, 1978, AAI Corporation protests against award of a contract to Martin Electronics, Inc., under invitation for bids (IFB) No. DAAK10-78-B-0075. The IFB was issued by the United States Army Armament Research and Development Command, Dover, New Jersey, on April 14, 1978. This solicitation was the subject of our decisions E. Walters & Company, Inc., B-192346, September 25, 1978, 78-2 CPD 228, and AAI Corporation, B-192346, November 3, 1978.

The present protest by AAI is based upon the fact that the Army allowed the apparent low bidder, E. Walters & Company, Inc. (E. Walters), to withdraw its bid on September 27, 1978, under section 2-406.3 of the Defense Acquisition Regulation (1976 ed.) dealing with mistakes in bids. On September 27, 1978, award under the solicitation was made to Martin Electronics, Inc., the second low bidder. AAI protests that it was improper for the contracting activity to allow E. Walters to withdraw its bid because AAI alleges that E. Walters' mistake was due to an "unreasonable misconstruing of an unambiguous specification." AAI contends that either the contracting officer should have required E. Walters to accept the contract at the erroneous bid price or he should have canceled the solicitation. AAI requests that our Office direct the contracting officer to terminate the contract with Martin Electronics and to follow one of AAI's suggested courses of action.

In our decision in the matter of E. Walters & Company, Inc., B-192346, September 25, 1978, we held that E. Walters could not properly be allowed to correct its bid upward but stated that we would interpose no objection to permitting E. Walters to withdraw its bid. In that decision we also indicated that the Command Counsel, Headquarters, United States Army Materiel Development and Readiness Command, had reached the same conclusion regarding withdrawal of E. Walters' bid on July 26, 1978. Although AAI makes its request for corrective action in the form of a new protest, it is clear that the issue is the same as that decided in our September 25, 1978, decision in which AAI was an interested party. Accordingly, we will treat AAI's request as a request for reconsideration of the September 25, 1978, decision.

According to AAI, it received a copy of our September 25, 1978, decision on E. Walters' request for upward correction on October 10, 1978, the day AAI filed its first protest against award under IFB No. DAAK10-78-B-0075. Under section 20.9(h) of our Bid Protest Procedures, 4 C.F.R. § 20.9(b)(1978), a request for reconsideration of a decision must be filed not later than 10 days after the basis for reconsideration is known. Since AAI knew of the basis for our September 25, 1978, decision no later than October 10, 1978, but did not file its request for reconsideration until November 6, 1978, AAI's request is untimely filed and will not be considered on the merits.


Deputy: Comptroller General
of the United States