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Proc I



DECISION

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

FILE: B-194760

DATE: August 31, 1979

MATTER OF: Reliable Trash Service--~~request~~ for
reconsideration.

DIGEST:

Since court has not indicated any interest in GAO's reconsideration of prior decision rendered in response to ~~initial expression~~ of interest from court, GAO will not reconsider decision.

DLG 02557

Court Request

Reliable Trash Service (Reliable) requests reconsideration of our decision in the matter of Reliable Trash Service, B-194760, August 9, 1979. That decision was rendered in response to an expression of interest from the United States District Court for the District of Columbia in connection with Civil Action No. 79-1402 entitled Shayne v. Stetson, et al.

AGC 00748

(D. C. 1979)

It is our policy not to decide matters where, as here, the material issues are before a court of competent jurisdiction. However, if the court expresses an interest in a decision by our Office, we will then consider the matter on the merits. See Dynatrend, Inc., B-192038, January 3, 1979, 79-1 CPD 4.

Here, the presiding judge did express an interest in our decision, and we therefore rendered the above-mentioned decision which denied Reliable's protest. Reliable on its own behalf now requests reconsideration. However, since our prior decision was in response to the court's request and the court has not indicated an interest in our Office reconsidering the decision, we will take no further action on the merits of this matter. Sea-Land Service, Inc.--request for reconsideration, B-192149, December 19, 1978, 78-2 CPD 421.

We do wish, however, to clarify our prior decision's statement concerning the Air Force's denial of Reliable's allegation that the successful bidder was privy to bid information and advice that was not made available to the other bidders. Reliable contends that we based our conclusion that all bidders were treated

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equally on "an ex parte communication of hearsay" from the agency.

Reliable's allegation had been accompanied by specific questions to pertinent agency officials. We were unable to conclude that the protester's unsupported allegation had merit in view of the Air Force's oral denial in response to those questions. While we acknowledge that substantiation for the Air Force denial had not been confirmed formally prior to the decision's issuance, by letter dated August 6, 1979, the Air Force did forward to our Office the sworn affidavits of the two officials responsible for the procurement both of whom denied Reliable's allegation. We proceeded without formal confirmation because of the need for a quick response to the court's request, the Air Force assurance that documents supporting the statement would be forthcoming, and the request by protester's counsel for a prompt resolution of the protest. We believe that the Air Force submission adequately supports the denial. We also note that our file indicates that Reliable was sent a copy of this letter.

Accordingly, Reliable's request for reconsideration is dismissed.

Harry R. Van Cleave
for Milton J. Socolar
General Counsel