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Mr. Hordell

DECISION



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

FILE: B-193793.5

DATE: February 19, 1980

MATTER OF: Lamar Electro-Air Corporation--
Reconsideration

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DIGEST:

[Request for Reconsideration of Protest Dismissal]

Decision dismissing protest where subject matter of protest was also pending before court is affirmed where protester presents neither evidence demonstrating any error of fact or law in prior decision nor substantive information not previously considered.

Lamar Electro-Air Corporation (Lamar) requests reconsideration of its protest decided in Lamar Electro-Air Corporation, B-193793.4, January 17, 1980, 80-1 CPD _____, which dismissed the protest.

The basis for the dismissal was that our Office will not decide a matter where the material issues involved are before a court of competent jurisdiction unless the court expects, requests or otherwise expresses interest in receiving our decision. Since the court denied Lamar's motion to defer the court's ruling pending our decision, we stated in our prior decision, "it is clear that the court has no interest in our decision and is proceeding with discovery."

In its request for reconsideration, Lamar states that we did not send to Lamar for its comments a copy of the Department of the Air Force's (Air Force) report. In addition, Lamar argues that we should have awaited Lamar's comments to the Air Force's January 4, 1980, letter report before we issued our decision. Furthermore, Lamar contends that our decision did not consider all of the information submitted by the parties.

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Our prior decision concerned whether we would consider Lamar's protest--a jurisdictional issue. Since the Air Force's report notified us that the court had denied Lamar's motion to defer the court's ruling, and Lamar obviously was aware of this fact, it was not necessary to provide Lamar the opportunity

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to comment. Under our Bid Protest Procedures, 4 C.F.R. § 20.10 (1979), we have consistently dismissed protests in this circumstance. Consequently, any information submitted to our Office by the Air Force which concerned the merits of Lamar's protest was irrelevant and not considered in our decision. In these circumstances, it was not necessary to await comments on the report by the parties.

Since Lamar's request does not present any evidence demonstrating any error of fact or law in the original decision nor provide any substantive information not previously considered, and apparently the matter is still pending in court, we find no basis for reversing our prior decision that the protest is not for consideration. 4 C.F.R. § 20.9 (1979).

Accordingly, our prior decision dismissing the protest is affirmed.


Deputy Comptroller General
of the United States