

117479

20766

Edwinson
Proc

DECISION



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

FILE: B-200399,2

DATE: February 8, 1982

MATTER OF: Klein-Sieb Advertising & Public
Relations, Inc.--Request for
Reconsideration

DIGEST:

1. Contentions in request for reconsideration that merely reiterate previous allegation addressed in initial decision will not be considered.
2. Although request for reconsideration alleges that initial decision denying bid protest was based on various errors of fact, previous decision is affirmed where additional factual allegations are immaterial or inaccurate, or they were known but not raised by protester during the initial protest.

Klein-Sieb Advertising & Public Relations, Inc. (Klein-Sieb), requests reconsideration of our decision Klein-Sieb Advertising & Public Relations, Inc., B-200399, September 28, 1981, 81-2 CPD 251, in which we denied that firm's protest of a proposed award of a fixed price contract for advertising services in support of Air Force Reserve recruiting under request for proposals (RFP) F09650-80-R-0133, issued by Warner Robins Air Logistics Center, Georgia (Air Force). In that decision, we held that specifications in the RFP were not ambiguous where precise estimates of work to be performed could not be made but where the solicitation placed offerors on notice of that fact and permitted them to use business judgment in setting prices to cover the risk that services actually needed might vary from those indicated. We also stated that we could not conclude that the RFP was overly vague, considering that seven offerors submitted proposals and that two offerors had specifically stated that they had no difficulty in preparing proposals properly.

In its request for reconsideration, Klein-Sieb makes four contentions regarding our decision. One of

these contentions, that other offers were unrealistically low, is merely a reiteration of a previous allegation addressed in the original decision and will not be considered here. See W. M. Grace, Inc. -- Request for Reconsideration, B-202842.2, September 21, 1981, 81-2 CPD 230. Klein-Sieb's other contentions are allegations that our previous decision was based on several errors of fact. For the reasons discussed below, we affirm our initial decision.

Klein-Sieb takes exception to our statement that "[we] cannot conclude that the range of prices from \$101,000 to \$182,000 is so great that it indicates overly vague specifications, rather than normal differences in pricing." According to Klein-Sieb, our consideration of the spread in bid prices did not take into account pricing patterns of the advertising industry, which, Klein-Sieb alleges, are characterized by minimal variations in overhead and profit from one advertising agency to another.

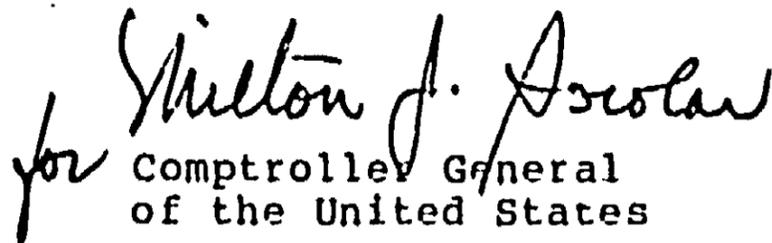
Klein-Sieb has made no attempt to document its characterization of advertising industry pricing patterns. Even had it done so, however, we consider such information to be of minimal relevance to this case. As we indicated in our decision, there are factors other than variations in overhead and profit that could contribute to price differences in solicitations of this type. In this regard, we stated there that offerors would be expected to use their business judgment in setting prices to cover the risk of being asked to perform greater amounts or different types of services than indicated. Since this matter was considered in our original decision, we will not consider it further. 4 C.F.R. § 21.9(a) (1981).

Klein-Sieb next criticizes our reliance on the statements of two offerors that the solicitation was adequate for preparation of proposals on a firm fixed-price basis. According to Klein-Sieb, our reliance was misplaced, as one of the two offerors was "unqualified" and the other was the low bidder. This contention, however, is factually inaccurate. Neither of the two advertising agencies mentioned in the decision, Fluker & Associates and Bozell & Jacobs, Inc., was the low offeror under this solicitation. Both bidders were deemed to be acceptable by the Air Force during the technical evaluation process. We considered both firms to be competent to offer their opinions on the solicitation, and Klein-Sieb has presented no evidence other than its own opinion of these firms that would persuade us otherwise.

Klein-Sieb's final contention is that the failure of the Air Force to release historical costs of a previous contract was evidence of bias against Klein-Sieb on the part of Air Force procurement officials. In support of this allegation, Klein-Sieb describes what it considers to have been an atmosphere of hostility against Klein-Sieb, allegedly existing even before the issuance of the present solicitation.

We have repeatedly held that bias will not be attributed to procurement officials based on inference or supposition. Policy Research Incorporated, B-200386, March 5, 1981, 81-1 CPD 172. Consequently, we cannot conclude from the Air Force's actions in this case that it was biased against Klein-Sieb. In addition, to the extent that this allegation raises factual matters known to Klein-Sieb at the time of that firm's initial protest (the firm describes a series of events which occurred during the performance of its contract), it should have been raised during development of that protest and will not be considered at this time. See Security Assistance Forces & Equipment International Inc. -- Reconsideration, B-199377.2, June 2, 1981, 81-1 CPD 435.

Our previous decision is affirmed.

for 
Comptroller General
of the United States