

*Konovsky*  
31565

**DECISION**



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

**FILE:** B-218983.2      **DATE:** June 27, 1985  
**MATTER OF:** Traffic Marketing Development  
Services, U.S.A., Inc.--Reconsideration

**DIGEST:**  
Prior dismissal is affirmed where no new facts or legal arguments are raised on reconsideration which show that dismissal was erroneous.

Traffic Marketing Development Services, U.S.A., Inc. (Traffic), requests reconsideration of our decision in Traffic Marketing Development Services, U.S.A., Inc., B-218983, June 6, 1985, 85-1 C.P.D. ¶ \_\_\_\_\_, dismissing the firm's protest against the award of a contract to Sea Air International (SAI) under a General Services Administration solicitation (GSA) for air freight services.

We affirm our prior dismissal.

Traffic contended that GSA improperly accepted a below-cost bid from SAI in violation of fair bidding standards. In our prior decision, we responded to this contention by explaining that the submission of a bid a competitor considers too low does not provide a legal basis for precluding an award so long as the contracting agency finds the bidder capable of performing at the bid price--a determination our Office generally does not review. BUR-TEL Security Protection Systems, B-218829, May 16, 1985, 85-1 C.P.D. ¶ \_\_\_\_\_; Sun Temporary Services, B-210577, Feb. 17, 1983, 83-1 C.P.D. ¶ 167.

On reconsideration, Traffic maintains that our decision "does not relate" to the firm's protest. However, Traffic's protest is that SAI is bidding "below the actual cost [of current market shipping rates] causing unfair competition." Thus, we believe our prior decision explaining that the practice of below-cost bidding is not illegal and that the government cannot withhold or disturb an award merely because it is below cost applies to the subject protest. See Danline Inc., B-215878, July 31, 1984, 84-1 C.P.D. ¶ 145.

032435

Further, to the extent that Traffic may be protesting that SAI's (below-cost) bidding approach here and in other procurements of this nature is designed to preclude small businesses, such as Traffic, from competing and, thus, may be in violation of antitrust laws, we point out that our Office does not review antitrust violations and any evidence of such violations should be submitted to the contracting officer for possible referral to the Attorney General in accordance with the Federal Acquisition Regulation, 48 C.F.R. § 3.303 (1984). See Swiss Tex, Inc., B-200809; B-200810, Oct. 31, 1980, 80-2 C.P.D. ¶ 333.

*for Seymour Spas*  
Harry R. Van Cleve  
General Counsel