

**DECISION**

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

**FILE:** B-220641.3

**DATE:** April 17, 1986

**MATTER OF:** Rocky Mountain Trading Company

**DIGEST:**

1. Where prior decision sustained protest and recommended termination of contract and resolicitation on the basis that the invitation for bids was misleading, prior awardee's charge that successful protester's bid was defective does not provide a basis for reconsideration.
2. Decision as to costs recoverable due to termination of a contract for convenience of the government is a matter of contract administration to be determined by the contracting agency, not the General Accounting Office.

Rocky Mountain Trading Company (RMTc) requests reconsideration of our decision in Talbott Development Corp., B-220641, Feb. 11, 1986, 86-1 C.P.D. ¶ 152, in which we sustained Talbott Development Corporation's protest of a contract awarded to RMTc under Department of the Army invitation for bids (IFB) No. DABT01-85-B-4075. We deny the reconsideration request.

The IFB solicited bids for five IBM PC-AT systems, or equivalent, made up of 30 separate line items. The Army had awarded a contract for all items to RMTc as the low aggregate bidder, although the Army had received lower bids on some items from firms that did not bid on all items. In our decision, we held that the language used in the IFB did not adequately express the Army's intention to make a single, aggregate award of all 30 line items rather than awarding separate contracts to the low bidders on each line item. We found that a majority of the bidders--including Talbott--were misled, bidding on only a portion of the line items. We recommended that the Army terminate RMTc's contract for convenience and resolicit the requirement, advising the bidders that a single aggregate award would be made.

In requesting reconsideration, RMTc argues that Talbott's bid should be found nonresponsive. RMTc restates

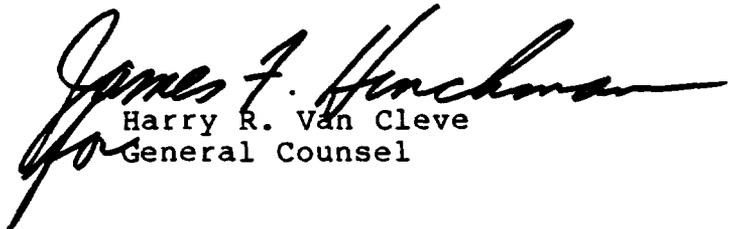
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the Army's earlier explanation of why it made a single aggregate award. In its report to our Office incident to the initial protest, the Army defended its single award by citing the need for compatibility between the systems' components. In view of that need, RMTC argues that Talbott's bid, on only a portion of the line items, should be considered nonresponsive. RMTC further states that Talbott's offered product probably is produced in Taiwan, and that Talbott's failure to acknowledge the product as foreign also should render the bid nonresponsive.

In response to both issues we point out that our decision neither questioned the Army's conclusion that an aggregate award was necessary nor recommended that the contract be awarded to Talbott. Rather, we found the IFB to be misleading and recommended that the Army resolicit the requirement, clearly advising bidders of the intended aggregate award. Our recommendation sought to remedy the prejudice to bidders who had relied on the misleading IFB and had submitted bids on fewer than all 30 line items. RMTC's arguments clearly are not relevant to our finding and recommendation.

Finally, RMTC states that prior to its receipt of the Army's notice suspending contract performance pending this Office's decision on Talbott's protest, it had incurred most of the costs incident to the contract. A decision as to the costs RMTC may recover in the termination settlement, however, is a matter of contract administration for consideration by the Army, not our Office. See Crawford Laboratories, B-211706, Aug. 15, 1983, 83-2 C.P.D. ¶ 210.

The request for reconsideration is denied.

  
 Harry R. Van Cleve  
 General Counsel