



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Freund Precision, Inc.--Reconsideration
File: B-228116.2
Date: October 23, 1987

DIGEST

General Accounting Office (GAO) declines to reopen file closed in reliance on protester's oral withdrawal where record indicates that any misunderstanding as to which of several pending protests to which the protester referred was on the protester's part, not GAO's, which properly closed file (and so notified contracting agency) on basis of protester's communication.

DECISION

Freund Precision, Inc., requests that we reopen our file on, and decide the merits of, its protest of the award of a contract by the Defense Logistics Agency (DLA) under solicitation No. YPE86211001070. We closed our file without action because the protest was withdrawn.

For the reasons stated below we decline to reopen the file.

Our records reflect that on the day after the protest was filed we received a telephone call from the protester in which it advised that it was withdrawing this protest and would be sending a letter to that effect to our Office. On the same day, we issued "Confirmation of Withdrawal" notices to the protester and DLA advising each that we had closed our file without action.

The protester objects to our closing of this file on the basis that it never intended to withdraw this protest and that it did, and now does, seek a ruling on the merits. It claims that during the telephone conversation which it initiated, its employee mistakenly understood the Chief of our Procurement Law Control Group, with whom she was speaking, to be referring to a different Freund protest then before our Office. Freund points out it has withdrawn several other protests which it has recently filed and appears to suggest that the telephone call was intended to

relate to one of them, although it does not identify which one.

The only conclusion which we reasonably can draw from our record of this protest is that a withdrawal of it was communicated to us and in reliance on that advice we closed our file and so notified the contracting agency. If a misunderstanding existed, as Freund now asserts, it was on the part of its employee. Since the error was not ours, and since we acted on the basis of the protester's communication to us, we do not think Freund has established an appropriate case for a reopening of the file and it remains closed.

for Seymour S. Hinchman
James F. Hinchman
General Counsel