



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Hi-Q Environmental Products Co.--Reconsideration
File: B-229683.2
Date: May 19, 1988

DIGEST

1. Request for reconsideration is denied where protester essentially reiterates arguments initially raised and fails to show any error of fact or law that would warrant reversal or modification.
2. Protesters are charged with constructive knowledge of General Accounting Office's Bid Protest Regulations.

DECISION

Hi-Q Environmental Products Co. requests that we reconsider our decision in Hi-Q Environmental Products Co., B-229683, Mar. 22, 1988, 88-1 CPD 295. In that decision, we denied Hi-Q's protest of the award of a contract to Science Applications International Corporation (SAIC) under request for proposals (RFP) No. N00612-86-R-0778, issued by the Department of the Navy for air particle samplers to be used to detect radioactive particles on nuclear vessels and at other sites.

We deny the request for reconsideration.

The RFP had contemplated the award of one or more firm, fixed-price contracts for three first articles, and one or more requirements contracts for production units. Firms were to submit two separate offers, one for the first articles and one for the production units. The RFP further specified that award of the production-unit contract would go to the contractor whose first article passed testing, provided such award was most advantageous to the government, price and other factors considered.

The Navy awarded contracts for first articles to Hi-Q and SAIC. Both firms received approval of their requests to use nonstandard parts for the unit's vacuum motor blower. The

Navy subsequently approved SAIC's first article and notified Hi-Q that its unit was disapproved because of a critical failure concerning the unit's alternating current power source. The Navy then awarded a contract for the production phase of the procurement to SAIC. Hi-Q discovered that the full production contract had been awarded to SAIC following a November 17 telephone conversation with the Navy, never having received notification sent by the Navy.

Hi-Q alleged that the Navy should not have evaluated offers for production units until after all contracted first articles passed testing. Hi-Q also challenged the Navy's approval of the nonstandard part; argued that the award of a contract for production units to SAIC prior to completion of the testing of Hi-Q's first article deprived Hi-Q of a fair evaluation of its offer for production units and allowed the Navy to award based on price rather than on price and technical merit; and alleged that the award of the contract to SAIC would result in a higher cost to the Navy. We found the protest on the first matter untimely, dismissed the second as involving contract administration, which we do not review, and found no legal merit in the others.

In its request for reconsideration, Hi-Q first asserts that it never received notification of the Navy's award of the production contract to SAIC; the Navy had reported that it notified Hi-Q of the award on September 18, 1987. Hi-Q complains, secondly, that the Navy should not have disapproved its first article and approved SAIC's; third, that the Navy disallowed the use of the nonstandard part for the blower motor in the pre-bid conference but later approved its use; fourth, that more than one award for production units could have been made; and fifth, that the Navy failed to request best and final offers upon completion of first article submission, despite the agency's preliminary plan to do so.

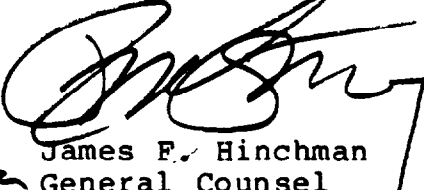
A party requesting that we reconsider a bid protest decision must show that our prior decision contains either errors of fact or of law or information not previously considered that warrant its reversal or modification. 4 C.F.R. § 21.12 (1988). Repetition of arguments made during resolution of the original protest, or mere disagreement with our decision, does not meet this standard. Roy F. Weston, Inc.--Reconsideration, B-221863.3, Sept. 29, 1986, 86-2 CPD ¶ 364.

With respect to Hi-Q's assertion that it never received the September 18, 1987, notification from the Navy of the award of the production contract to SAIC, we point out that such notice was not relevant to any of the issues raised in the

firm's protest. Also, the challenge to the Navy's approval of SAIC's first article and disapproval of Hi-Q's first article (second reconsideration point), and approval of nonstandard parts for first articles (third point), involves matters of contract administration, which our Office does not consider as part of our bid protest function. See 4 C.F.R. § 21.3(m)(1). Hi-Q's fourth and fifth allegations are essentially reiterations of arguments that the firm raised in its initial protest, and which we either considered and addressed on the merits in our decision or found to be untimely.

Hi-Q also asserts that it was advised by government representatives that it should complete its first article contract before protesting. However, the only protest issue to which Hi-Q's time of filing was relevant was the firm's argument that the Navy should have waited for Hi-Q to pass testing before evaluating offers for the production units. We dismissed the protest on this issue because Hi-Q knew of the way the Navy was proceeding in November of 1986, more than 1 year before the firm protested to our Office, and we have no reason to believe that the advice Hi-Q alleges it received was given at any time close to the time when this basis for protest arose. Moreover, erroneous statements about protest procedures do not alter the untimeliness of a protest, because prospective contractors are on constructive notice of our Regulations, since they are published in the Federal Register and the Code of Federal Regulations. Data Processing Services, B-225443.2, Dec. 18, 1986, 86-2 CPD ¶ 683.

Hi-Q has not met the standard set out in our Regulations for reconsidering a prior decision. The request for reconsideration therefore is denied.



James F. Hinchman
General Counsel