



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Restrepo Enterprises, Inc.--Reconsideration
File: B-228233.3
Date: February 28, 1989

DIGEST

Request for reconsideration is denied where argument that protester should have received award because it was low after receipt of second round of best and final offers was not timely raised in original protest.

DECISION

Restrepo Enterprises, Inc., requests that we reconsider our decision in Restrepo Enterprises, Inc., B-228233.2, Dec. 8, 1988, 88-2 CPD ¶ 570. In that decision, we denied in part and dismissed in part Restrepo's protest of an award to Eagle Technology, Inc., under request for proposals (RFP) No. DABT60-87-R-0087, issued by the Army for the design and development of interactive courseware to be used at the Army's Air Defense Artillery School.

We deny the request for reconsideration.

After finding several of Restrepo's grounds of protest untimely, we concluded in our decision that the protester failed to support its remaining ground that the agency allegedly failed to follow the solicitation evaluation criteria in making award to the lowest cost technically acceptable offeror.

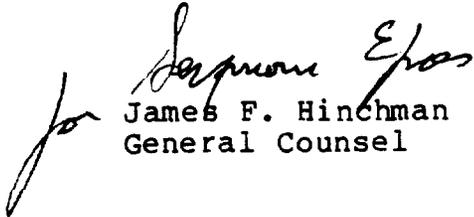
Restrepo argues that our decision contained an error of law since its proposal, not Eagle's, was determined to be the lowest cost, technically acceptable offer. Thus, the protester concludes award should have been made to it.

The protester is mistaken. Restrepo did not submit the lowest cost, technically acceptable offer. To the contrary, although Restrepo was the apparent low offeror following the second round of best and final offers (BAFOs), it was in fact displaced by Eagle as the low offeror during the third

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and final round of BAFOs, and our decision recognized this. Since, as we stated in our initial decision, Restrepo did not timely protest either the second or third request for BAFOs, it has no basis upon which to complain that it should have received the award based on its second BAFO.

The request for reconsideration is denied.

 James F. Hinchman
General Counsel