

S. Cooper



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Eagle Transfer, Inc.--Request for
Reconsideration

File: B-235348.2

Date: October 17, 1989

DIGEST

Request for reconsideration of decision sustaining protest against cancellation of invitation for bids after bid opening 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.

DECISION

Eagle Transfer, Inc., requests reconsideration of our decision in TUMI Int'l, Inc., B-235348, Aug. 24, 1989, 89-2 CPD ¶ 174. In that decision, we sustained TUMI's protest against the cancellation after bid opening of invitation for bids (IFB) No. XXXX-820108, issued by the Department of State for handling freight going to international carriers for overseas shipment in the Miami, Florida, commercial zone.

We deny the request for reconsideration.

TUMI protested State's cancellation of the IFB as ambiguous, arguing that the IFB was susceptible to only one reasonable interpretation. TUMI argued that Eagle's differing interpretation of the solicitation was unreasonable because Eagle read the IFB to call for prices for certain services--delivery and stowing of items to be shipped--to exclude export-packing the items, when in fact State had intended that export-packing be included, and the IFB was clear with respect to the requirement for the export-packing service.

We sustained TUMI's protest on the basis that, from our reading of the solicitation as a whole, the only reasonable interpretation of the IFB was as TUMI and two of the three other bidders and State intended, with subsections read under appropriate sections, and main headings applying to all sections and subsections under it. That interpretation included export-packing with each of the three delivery

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services: loading, delivery and stowing. Since we determined that the IFB was not ambiguous, we concluded that State did not have a compelling reason to cancel the IFB after bids had been exposed. Accordingly, we recommended that the IFB be reinstated and award be made to the low, responsive, responsible bidder. In this regard, since Eagle's low bid was based on an erroneous interpretation of the IFB which excluded export-packing, we also recommended that Eagle's bid be rejected.

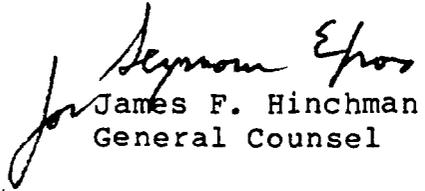
Eagle now requests reconsideration of our decision, arguing that we should consider the good faith of all parties and the degree of prejudice to all interested parties and the procurement process; that the ambiguities Eagle found in the IFB were not unreasonable; and that existing law supports State's decision to cancel the IFB and recompute the requirement.

To obtain reversal or modification of a decision the requesting party must convincingly show that our prior decision contains either errors of fact or law or information not previously considered that warrant its reversal or modification. See 4 C.F.R. § 21.12(a) (1989); Johnson Eng'g and Maintenance Co.--Reconsideration, B-228184.2, Mar. 23, 1988, 88-1 CPD ¶ 298. Repetition of arguments made during resolution of the original protest or mere disagreements with our decision do not meet this standard. Id.

We find nothing in Eagle's request for reconsideration that meets its burden to show that our prior decision was legally or factually wrong. Basically Eagle disagrees with our finding that the IFB was not ambiguous, arguing, as the firm did in its original submissions, both that Eagle was a first time bidder who prepared its bid in good faith, and that other ambiguities existed in the IFB that prejudiced Eagle and other bidders. We have already considered these issues in our original decision where we found that Eagle's interpretation of the IFB was unreasonable for any bidder, and that the record was insufficient to conclude that cancellation was justified on the basis of additional alleged ambiguities. Moreover, Eagle's bare assertion that we misapplied the existing law, followed by a list of cases supporting its position, again constitutes only

disagreement with the application of the law in our decision and does not present any errors that warrant its reversal or modification.

The request for reconsideration is denied.

James F. Hinchman
General Counsel