

*Census*



**Comptroller General  
of the United States**

**Washington, D.C. 20548**

# **Decision**

**Matter of:** Hose-McCann Telephone Company, Inc.--  
Reconsideration

**File:** B-240382.2

**Date:** August 6, 1990

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Sam Zalman Gdanski, Esq., for the protester. Catherine M. Evans, David Ashen, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## **DIGEST**

Dismissal of protest for failure to state a basis of protest is affirmed; the agency's failure to select protester for award, together with the fact that the protester purportedly developed the specifications, does not by itself indicate that, as alleged, offerors were not competing on equal basis.

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## **DECISION**

Hose-McCann Telephone Company, Inc. requests reconsideration of our July 16, 1990 dismissal of its protest of any award of a contract to another offeror under request for proposals No. N00104-89-R-E853, issued by the Department of the Navy for reel cable.

In its protest, Hose-McCann complained that, although it had played a prominent role in getting the agency to revise the specifications for this requirement, it had now been notified that the agency intended to select another offeror for award. Hose-McCann asserted that not all offerors were competing on the same basis because, while it understood what the revised specifications required, the specifications "may be being interpreted in different ways by different bidders." We dismissed the protest pursuant to our Bid Protest Regulations, 4 C.F.R. § 21.1(c)(4) (1990), which

provide for dismissal of a protest that fails to provide a detailed statement of the legal and factual grounds of protest. Hose-McCann asserts in its reconsideration request that the fact that it is not being considered for award even though it developed the current specification is prima facie evidence that all offerors were not competing on the same basis. We disagree.

Our regulations contemplate that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood of the protester's claim of improper agency action. Professional Medical Prods., Inc., B-231743, July 1, 1988, 88-2 CPD ¶ 2. Notwithstanding any role Hose-McCann may have had in developing the specifications, the fact that the agency selected another offeror does not by itself suggest that all offerors were not competing on the same terms, since Hose-McCann simply might not have offered the most favorable price. Indeed, Hose-McCann informed us that the procurement was delayed while the agency sought to assure that all offerors were competing on the basis of the same drawings. Thus, the protester's mere assertion that vendors were reading the specifications differently, without any supporting information such as an unusually wide spread in prices, does not establish the reasonable possibility that the assertion was valid.

Accordingly, dismissal of the protest was proper, and the dismissal is affirmed.

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