



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: M.B. Shaw Company--Reconsideration

File: B-247247.2

Date: February 12, 1992

Michael J. Gardner, Clark & Stant, P.C., for the protester. Henry J. Gorczycki, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

A protest that alleges a competitor's price is unreasonably low, which suggests either a mistake or a buy-in, was properly dismissed, without obtaining an agency report, because the protest fails to state a valid basis for protest.

DECISION

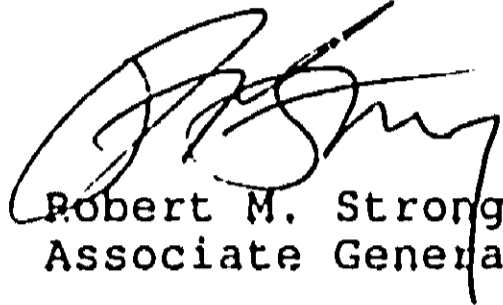
M.B. Shaw Company requests reconsideration of our dismissal of its protest of a contract award by the Department of the Navy under request for proposals (RFP) No. N00189-92-R-0019. The protester had claimed that a contract was improperly awarded to Banks-Dorgan because the awardee's proposed price was unreasonably low, suggesting either a mistake or a buy-in. We dismissed the protest because the issue did not present a valid basis for protest. Shaw asserts that our dismissal failed to specifically address its allegations that the agency should have suspected a mistake in the awardee's offer.

We deny the request for reconsideration.

A protester has no standing to claim an error in a competitor's offer, since it is the responsibility of the contracting parties--the government and the low offeror--to assert rights and bring forth the necessary evidence to resolve mistake questions. Esilux Corp., B-234689, June 8, 1989, 89-1 CPD ¶ 538. Moreover, even if the awardee's offer did constitute a buy-in, there is no legal basis on which a competitor may object to the submission or acceptance of a below-cost offer. Id. Thus, Shaw has claimed no basis for protest for which we will grant it relief.

Shaw also argues that our Office must fully develop the record in order to allow Shaw access to agency records that might reveal agency error in awarding the contract at the alleged unreasonably low price. The Competition in Contracting Act of 1984, 31 U.S.C. § 3554(a) (1988), expressly authorizes our Office to dismiss a protest that is frivolous or, on its face, does not state a valid basis for protest. Since Shaw's protest did not on its face state a valid basis for protest, there was no need for us to obtain a report from the agency.

The request for reconsideration is denied.



Robert M. Strong
Associate General Counsel