



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** American Imaging Services, Inc.--  
Reconsideration

**File:** B-250861.2

**Date:** January 5, 1993

George Papaioanou, Esq., Smith, Currie & Hancock, for the protester.

Donald S. Safford, Esq., Department of the Navy, for the agency.

Linda C. Glass, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Clause providing for evaluation preference for small disadvantaged business concerns omitted from solicitation may not be read into solicitation under the "Christian Doctrine" since that doctrine provides only that mandatory contract clauses may be read into an otherwise properly awarded contract.

### DECISION

American Imaging Services, Inc. requests reconsideration of our dismissal as untimely of its protest of the award of a contract under request for proposals (RFP) No. N00123-92-R-0350, issued by the Department of the Navy. The protester alleged that the agency improperly failed to apply to its offer an evaluation preference for small disadvantaged business (SDB) concerns and that American would have been low based on application of the preference.

We affirm our dismissal.

As we stated in our decision, evaluation of offers must be in accordance with the solicitation's evaluation provisions. Since the protested solicitation did not contain any provision for applying an SDB preference, evaluation on the basis of a preference would have been improper.

Further, regarding the protester's contention that the solicitation should have provided for the SDB evaluation preference, such a contention concerns a solicitation

impropriety that was apparent prior to the time set for receipt of proposals and should have been protested prior to that time. Bid Protest Regulations, 4 C.F.R. § 21.2(a) (1) (1992).

On reconsideration, the protester argues that the SDB evaluation preference was required by regulation in furtherance of a strong underlying statutory policy and, therefore, should have been viewed as incorporated into the solicitation by operation of the "Christian Doctrine." See G.L. Christian & Assocs. v. United States, 312 F.2d 418 (Ct. Cl.), cert. denied, 375 U.S. 954 (1963). We do not agree. The "Christian Doctrine" provides for the incorporation by law of certain mandatory contract clauses into an otherwise validly awarded government contract; it does not stand for the proposition that mandatory provisions may or should be incorporated by law into a solicitation. Dataproducts New England, Inc. et al.; ITT Corp., B-246149.3 et al., Feb. 26, 1992, 92-1 CPD ¶ 231; Diemeco, Inc., B-246065, Oct. 31, 1991, 91-2 CPD ¶ 414; Mosler Sys. Div., Am. Standard Co., B-204316, Mar. 23, 1982, 82-1 CPD ¶ 273. In Diemeco, Inc., supra, we specifically concluded that the Christian doctrine could not be invoked to incorporate the correct SDB evaluation preference clause into a solicitation. The decision cited by the protester, 47 Comp. Gen. 457 (1968), involved incorporation of a mandatory provision into a contract, not a solicitation.

We affirm the dismissal.

  
Ronald Berger  
Associate General Counsel