



# Decision

Matter of: General Communications, Inc.--Reconsideration  
 File: B-259769.3  
 Date: August 2, 1995

## DECISION

General Communications, Inc. (GCI) requests reconsideration of our decision in Alascom, Inc., B-259768.2 et al., May 22, 1995, 95-1 CPD ¶ 251, which sustained Alascom Inc.'s protest against the Defense Information Systems Agency, Defense Information Technology Contracting Office's (DITCO) termination of three Alascom contracts for "T-1" telecommunication services under telecommunication service requests (TSR) Nos. SV15APR946165B, SV15APR946166B, and SV15APR946167B.

We deny the request for reconsideration.

The TSRs were to obtain competitive quotations for T-1 service from designated locations in Washington State to designated locations in Alaska for a 60-month period. The TSRs specified that each of the T-1 circuits being solicited would be nonchannelized with 1.544 megabits per second transmission capacity, full duplex operation, and full availability. The TSRs provided for award to the low-priced, technically acceptable offeror. No technical proposals were solicited, but quoters had to state their intention to comply with various TSR requirements.

Alascom, the incumbent contractor for these services, responded to all stated TSR requirements without exception with the lowest-priced quote on each TSR. Consequently, DITCO issued service orders to Alascom under the TSRs on September 20. DITCO later discovered from Alascom's filed tariffs that Alascom's quotes were based upon providing the T-1 service utilizing compression technology. Alascom's quotes did not specify that the T-1 service would be compressed and the TSRs were silent regarding whether compressed service was acceptable.<sup>1</sup> Since DITCO determined

<sup>1</sup>Alascom maintained that the first TSRs did not indicate that compression technology could not be used to provide the T-1 service, but nevertheless offered to provide the service under the initial award at an increased price.

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that its actual needs were for noncompressed service and that there was doubt whether the lowest price had been obtained for noncompressed service, given that Alascom was the incumbent contractor for the T-1 services, DITCO canceled the TSRs in order to resolicit for the services. The TSRs were revised to expressly specify that compressed service was unacceptable. The same quoters responded to the revised TSRs, with Alascom again submitting the lowest quote for the noncompressed T-1 service under each TSR. DITCO then issued orders for the noncompressed service to Alascom.

GCI, which had submitted quotes on the TSRs, protested at the agency level that cancellation of the first set of TSRs was improper, arguing that DITCO had to reject Alascom's quotes as technically unacceptable and make awards to the next lowest-priced, technically acceptable quoter. DITCO denied the protest on the basis that the first TSRs were reasonably canceled. However, DITCO later terminated Alascom's awards after GCI protested to our Office. Alascom then protested the terminations.

In our prior decision, we concluded that DITCO had no reasonable basis to cancel the second TSRs after proposals were received and awards made because DITCO's actions respecting the cancellation of the first set of TSRs and issuance of the second TSRs were reasonable and proper. We found that DITCO reasonably canceled the first TSRs on the basis of what DITCO previously conceded to be an ambiguity because the TSRs did not, as they could have, mention compressed or noncompressed service, and because DITCO found that Alascom, whose significantly lower quotes did not take exception to the requirements, was misled. We rejected GCI's assertion that it was prejudiced by the reopening of the competition because prices had not been disclosed under the original TSRs, all previous quoters had participated in the recompetition, and Alascom submitted the lowest price for the noncompressed services.

In requesting reconsideration, GCI contends that our decision was based on errors in fact, in that Alascom never sought to meet the requirements under the first TSRs, but only intended to provide a single compressed T-1 circuit, while charging the government for three circuits. GCI also argues that the first TSRs were not ambiguous regarding the requirement for compressed service and Alascom could not have been reasonably misled.

Therefore, GCI contends that our determinations both that Alascom's initial offer was not technically unacceptable and that the agency had a reasonable basis to cancel were incorrect.

GCI misunderstands our decision, which acknowledges that Alascom's planned response to the initial TSRs did not meet DITCO's actual requirements for noncompressed service and that the most reasonable reading of the initial TSRs did not contemplate compressed service. However, contrary to GCI's repeated assertions, Alascom's quotes did not take exception to the TSRs' requirements--indeed Alascom's quotes affirmatively indicated compliance with each TSR requirement for which the agency requested such responses--and thus could not be considered unacceptable. Nor does the record belie that Alascom (the incumbent contractor which undoubtedly could satisfy the agency's requirements) legitimately believed that compressed service satisfied the TSRs and the agency's actual requirements.<sup>2</sup> GCI has offered no evidence that Alascom was not reasonably misled other than what was previously considered--that is, that a compressed T-1 circuit is not equivalent to a noncompressed circuit, that Alascom did not intend to meet the agency's actual noncompressed service requirements, and that the most reasonable reading of the initial TSRs is that they contemplated noncompressed service.

GCI's major point on reconsideration, that Alascom was intending to provide compressed service over a single T-1 circuit instead of the three circuits required, is both not pertinent to our prior decision and not supported by the record. First and most pertinent, Alascom's quotes on the initial TSRs were acceptable and took no exception to any TSR requirement, and the agency acted reasonably within its discretion to obtain new quotes clarifying its actual requirements when it realized that Alascom had been misled and did not intend to provide noncompressed service. Moreover, Alascom's tariffs indicated that the compressed T-1 service was for three circuits, and Alascom denies that it intended to provide anything other than three compressed

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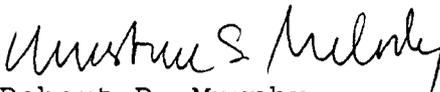
<sup>2</sup>The record reflected that Alascom believed that compressing the T-1 circuits was the most cost effective method to meet the government's T-1 service requirements. We note that the TSRs advised quoters that the government reserved the right to consider alternate quotes based upon alternative methods of transmission without further discussion.

T-1 circuits as expressly stated in its tariff filing-- nothing in the record contradicts this denial.<sup>3</sup>

Alascom's low quotes on the competitive resolicitation clearly reflecting the government's actual requirements essentially confirm that the agency was entirely reasonable in determining that it was in the government's best interest to solicit revised quotes specifying the requirement for noncompressed service, when it became cognizant of Alascom's misunderstanding of the government's actual requirements. As stated in our prior decision, the potential for increased competition or cost savings, or where the specifications give rise to an interpretation not intended, constitutes a reasonable basis to cancel a solicitation after receiving quotes. See Brisk Waterproofing Co., Inc., B-256138.3, June 30, 1994, 94-1 CPD ¶ 394; MLC Fed., Inc., B-254696, Jan. 10, 1994, 94-1 CPD ¶ 8.

Under our Bid Protest Regulations, to obtain reconsideration, the requesting party must show that our prior decision contains either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1995). Mere repetition of arguments made during our consideration of the original protest, while it demonstrates that the requester disagrees with our decision, does not satisfy this standard. See Curtis Center Ltd. Partnership--Recon., B-257863.3, Mar. 20, 1995, 95-1 CPD ¶ 147. GCI has not shown that our decision is improperly based upon factors warranting its reversal or modification, but only continues to assert arguments that were previously made and considered.<sup>4</sup>

The request for reconsideration is denied.

  
for Robert P. Murphy  
General Counsel

<sup>3</sup>Contrary to the protester's assertions, we recognized that compressed service would not take up the full 1.544 megabits per second bandwidth per T-1 circuit and this is why we concur that the most reasonable reading of the initial TSRs did not contemplate compressed service, although they did not exclude such service and otherwise solicited cost effective alternative service.

<sup>4</sup>GCI also requests a hearing in connection with its request for reconsideration. Since we find no basis to grant reconsideration, the request for a hearing is denied.