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J. Colman
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DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-194225.3, B-194673.3 DATE: December 27, 1979

MATTER OF: U.S. Duracon Corporation--Reconsideration

DIGEST:

1. Request for reconsideration of decision filed more than 10 days after basis for reconsideration was known or should have been known is untimely and will not be considered on merits.
2. Interpretation and enforcement of criminal statutes is charged to Department of Justice, not GAO.

U.S. Duracon Corporation (USDC) requests reconsideration of our decision in U.S. Duracon Corporation, B-194225, B-194673, May 15, 1979, 79-1 CPD 356, in which we denied its protest under invitations for bids Nos. N62472-79-B-0098 and N62472-79-13-2319 issued by the Department of the Navy. In that decision, we held that USDC had failed to show that prospective suppliers of piping for the construction projects involved were falsely certifying that their asbestos-free insulation materials had been approved by the Government as substitutes for the asbestos insulation covered by their Government-issued "Letters of Acceptability." A "Letter of Acceptability" was a prerequisite to participation in the projects. We subsequently denied USDC's request for reconsideration (in which it merely reiterated the arguments made in the original protest. U.S. Duracon Corporation (Reconsideration), B-194673, B-194225, June 18, 1979, 79-1 CPD 434.

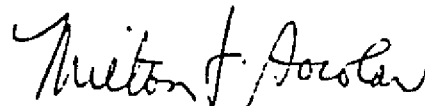
USDC has submitted with its present request a letter to the firm from the Navy dated August 17, 1979, stating that after further consideration and testing of various asbestos substitutes only one has been found acceptable. The letter further states that the original "Letters of Acceptability" therefore have been revoked, and interim ones have been issued contingent on the use of the approved pipe insulation. USDC contends that this letter "proves" its "claim of fraud" on the part of the piping suppliers.

It appears from USDC's original submissions that it received the Navy's letter on August 22. Our Bid Protest Procedures require that a request for reconsideration be filed not later than 10 working days after the basis for reconsideration is known or should have been known, whichever is earlier. 4 C.F.R. § 20.9(b) (1979). Accordingly, the present request, filed in our Office on October 29, is untimely.

Nevertheless, we believe that once USDC's original protest was filed, the Navy should have been more diligent in ascertaining whether changed insulation composition had been approved under the existing "Letters of Acceptability." However, in view of the action reflected in the Navy's letter to revoke existing "Letters of Acceptability," and based on informal advice from the Navy as to the status of the construction projects, no useful purpose would be served by our further consideration of the matter with respect to these procurements. In this connection, the fact that piping actually supplied for the projects may have contained materials that had not been approved is, at this point, a matter for consideration by the Navy in administering the contracts. Fiber Materials, Inc., B-194976, October 31, 1979, 79-2 CPD 309.

Finally, to the extent that USDC is arguing that any criminal laws may have been violated, we point out that the interpretation and enforcement of criminal statutes is charged to the Department of Justice, rather than our Office. Polite Maintenance, Inc., B-194669, May 10, 1979, 79-1 CPD 335.

The request for reconsideration is dismissed.



Milton J. Socolar
General Counsel