

DECISION



17553
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-207124.2

DATE: September 24, 1982

MATTER OF: Ridg-U-Rak, Inc.--Reconsideration

DIGEST:

Prior decision is affirmed where request for reconsideration does not establish that prior decision was based on error of fact or law.

Ridg-U-Rak, Inc. requests reconsideration of our decision concerning its protest of the cancellation of Invitation for Bids (IFB) F04700-8-B-0051. In that decision, Ridg-U-Rak, Inc., B-207124, August 25, 1982, 82-2 CPD ___, we denied Ridg-U-Rak's protest because we found that the original solicitation was ambiguous with respect to the actual quantity of materials (shelving) required.

In seeking reconsideration of its protest, Ridg-U-Rak admits that the original solicitation was ambiguous, but contends that cancellation was unfair to it, as the apparent low bidder for the quantities the agency required. Ridg-U-Rak states that it attempted to call the ambiguity to the Air Force's attention prior to bid opening, but that no amendment was issued for the benefit of all bidders. In Ridg-U-Rak's view, it is being unfairly required to suffer the loss of a contract because of the Air Force's failure to clarify its IFB.

Our purpose in considering bid protests is to review the legal propriety of agency procurement actions. While it is unfortunate that the Air Force did not amend its original solicitation to cure the ambiguity that was brought to the contracting officer's attention prior to bid opening, an ambiguity in a solicitation is nonetheless a cogent and compelling reason for canceling and resoliciting an agency's requirement.

Ridg-U-Rak also points out that the eventual awardee (on the second solicitation) inquired prior to submitting a bid on the initial solicitation and received clarifying information regarding the quantities of shelves needed. That firm, Ridg-U-Rak says, was not prejudiced.

Whether the eventual awardee was prejudiced by the ambiguity is not relevant since, as explained in our decision, at least one firm, United Steel Products, was prejudiced. United Steel Products underbid Ridg-U-Rak on resolicitation, and apparently would have done so on the original solicitation had it not misinterpreted the Government's requirements.

The record before us does not establish that our prior decision was based on any error of law or fact. Therefore, our prior decision is affirmed.

Harry D. Lee, Jr.
Comptroller General
of the United States