

DECISION



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

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FILE: B-212858.2

DATE: February 14, 1984

MATTER OF: Lockheed Engineering and Management
Services, Incorporated--Reconsideration

DIGEST:

Where request for reconsideration fails to demonstrate any erroneous fact or law, prior decision is affirmed.

Lockheed Engineering and Management Services, Incorporated (LEMSCO), requests reconsideration of our decision in Lockheed Engineering and Management Services, Incorporated, B-212858, December 23, 1983, 83-2 CPD. In that decision, we found that a protest against the omission of required clauses under a request for proposals (RFP) was untimely because the protest was not filed before the closing date for receipt of initial proposals. We also found that, since LEMSCO was not next in line for award if the protest of the technical acceptability of the awardee's proposal was sustained, LEMSCO was not an "interested party" to raise this protest issue under our General Accounting Office bid protest procedures.

We affirm our decision.

In its request for reconsideration, LEMSCO again asserts that the omission of the mandatory contract clauses requiring the evaluation of proposed compensation for professional employees to ensure that professional employees employed by government contractors are fairly compensated renders the contract award to BDM Management Services Co. (BDM), the awardee, illegal, and that this issue should have been considered on the merits. LEMSCO also argues that award to BDM was improper because BDM's proposal was technically unacceptable and BDM's proposal and offered price showed it did not understand the work to be performed. LEMSCO contends that our decision, by dismissing its allegedly otherwise valid protest on procedural grounds, is detrimental to the integrity of the competitive bidding process.

In essence, LEMSCO reiterates the arguments it presented in its initial protest which we dismissed under our bid protest procedures. LEMSCO has not provided any new arguments or facts in its reconsideration request, but

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merely disagrees with our decision not to consider its protest on the merits. Disagreement with our initial decision does not provide a basis to reverse that decision. Atlas Contractors, Inc.--Request for Reconsideration, B-209446.3, June 30, 1983, 83-2 CPD 46.

We note in this connection that the dismissal of LEMSCO's protest against omission of the clauses regarding evaluation of professional employee compensation because the protest was untimely filed is specifically supported by prior decisions of this Office. See, for example, Mosler Systems Division, American Standard Company, B-204316, March 23, 1982, 82-1 CPD 273, in which we dismissed an allegation that the solicitation was defective for failing to include a mandatory "Brand Name or Equal" clause because it was not timely filed before bid opening. See also Astronautics Corp. of America, B-179845, May 7, 1974, 74-1 CPD 230.

These decisions also indicate that in situations similar to this one we have strictly construed our timeliness rules. Since the purpose of section 21.1(b)(1) of our bid protest procedures is to expeditiously resolve protests at a stage in the procurement when some effective remedial action may be taken on meritorious protests, we think it is consistent with this purpose to dismiss this allegation of an alleged impropriety apparent from the face of the RFP untimely filed after an award to a competing firm has been made.

With regard to the alleged technical unacceptability of the awardee's proposal, LEMSCO has not challenged the finding based on the record that LEMSCO was not next in line for award if its protest against BDM's technical acceptability was upheld. Our decisions support a dismissal of this protest issue because LEMSCO was not an "interested party" to challenge the award to BDM. Photica Inc., B-211445, July 11, 1983, 83-2 CPD 74; Pluribus Products Inc., B-210444, March 7, 1983, 83-1 CPD 226. While LEMSCO disagrees with our dismissal of this issue on procedural grounds, it has not shown that the decision was erroneous.

Milton J. Fowler
ja Comptroller General
of the United States