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

FILE: B-212820.2 **DATE:** August 21, 1984

MATTER OF: Global Associates--Reconsideration

DIGEST:

1. Where on reconsideration no error of fact or law in prior decision is established that would warrant its reversal or modification, the decision is affirmed.

2. Request for a conference in connection with a request for reconsideration is denied, since the matter can be promptly resolved without a conference.

Global Associates requests reconsideration of our decision in Global Associates, B-212820, April 9, 1984, 84-1 CPD ¶ 394, in which we denied the firm's protest against the selection of Pan American World Services, Inc. to perform facility operations services under National Aeronautics and Space Administration (NASA) request for proposals (RFP) No. RFP-13-NSTL-P-83-1. Global alleges our prior decision contains a number of errors, which the firm summarizes in three grounds on which it says its request is based.

According to Global, our decision erroneously overlooks and tacitly approves a violation of the Service Contract Act by Pan Am and NASA. In Global's opinion, the decision ignores, conflicts with or reverses established precedent and erodes the integrity of the competitive procurement process. Further, Global contends that the decision accepts as fact statements by NASA that have no foundation. As explained below, we affirm our prior decision.

In the protest, Global contended that Pan Am had violated the Service Contract Act, 41 U.S.C. § 351 (1982), and was ineligible for award because Pan Am

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entered into a labor agreement which stated that, in the event of award, new employees would be paid reduced wage rates. Global also contended that this gave Pan Am an unfair advantage over offerors who were unaware of the agreement, because Pan Am could propose lower contract costs. We rejected both lines of argument.

Concerning the first, we pointed out that the RFP language Global cited to support its theory did not make an offeror ineligible for award merely because the offeror showed in its proposal that a basis might exist for revisions to a wage determination, provided the firm would be bound in the event of award to abide by the ultimate wage determination. We concluded that there was no evidence that Pan Am intended to avoid paying its employees as required by the Service Contract Act.

With respect to Global's argument that offerors who did not know of the agreement were placed at a competitive disadvantage, the record showed that cost, and particularly labor cost for new hires, had no impact on Pan Am's selection. Technical considerations were the predominant basis for Pan Am's selection. We further found that NASA did not take the Pan Am labor agreement's new hire wage adjustment into account in the selection decision, but that even if the agency had, this would have had relatively little effect on total operating costs at National Space Technology Laboratories because it applied only to new workers. Most of the employees, we noted, would not be new.

According to Global, our decision was improper because we failed to take into consideration a determination by the Department of Labor (DOL) dated December 13, 1983 concerning the Pan Am agreement. That determination expressed the view that a new wage determination based on the Pan Am-union agreement would be effective regardless of who was ultimately selected for award. In view of the DOL determination, Global says it should have been permitted to propose on the basis of revised wage rates. Global maintains that in our decision we disregarded those precedents which recognize that offerors are entitled to compete on an equal basis and that the contract awarded is to be the contract competed. Global contends that if it had known of the agreement, by reducing the wages paid new hires, it could have improved the technical aspects of its proposal.

Global's position is without merit. We did not comment on the DOL letter because it was not relevant to our decision in view of our finding that the magnitude of the cost difference that might be involved could have had little impact on the selection process. Thus, we cannot agree that as a practical matter, Global suffered any unfair competitive prejudice as a result of NASA's failure to advise offerors of the Pan Am agreement.

Concerning Global's contention that our prior decision accepts as fact certain views and supporting documentation that NASA presented in defense of the protest, we point out that the protester has the burden to prove its case. The FMI-Hammer Joint Venture, B-206665, Aug. 20, 1982, 82-2 CPD ¶ 160. Our consideration of Global's complaint included a review of the submissions and rebuttals of all parties, as well as an in camera examination of the agency's records, to determine whether there was a reasonable basis for NASA's actions. The record, in its entirety, supported the contracting agency's position.

The remainder of Global's request for reconsideration basically presents a reiteration of Global's views concerning the merits of the case, and disagreement with our conclusion. A request for reconsideration, however, must demonstrate an error of fact or law in our prior decision that warrants its reversal or modification. 4 C.F.R. § 21.9(a) (1984). Reiteration of arguments fully considered, and expression of disagreement with our holding, do not meet that burden. See Lockeed Engineering and Management Services, Incorporated--Reconsideration, B-212858.2, Feb. 14, 1984, 84-1 CPD ¶ 193.

Global has requested a conference in this matter. We will not conduct a conference on a reconsideration request, however, unless the matter cannot otherwise be resolved expeditiously. Quality Diesel Engines, Inc.--Reconsideration, B-203790.2, March 25, 1982, 82-1 CPD ¶ 282. We do not believe a conference is warranted in this case.

Since Global has not shown that our prior decision was based on any error of fact or law, the decision is affirmed.

Milton J. Socolar

Acting Comptroller General
of the United States