

DECISION

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

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FILE: B-219318.2**DATE:** September 5, 1985**MATTER OF:** Equity Federal Savings Bank--
Request for Reconsideration**DIGEST:**

Prior decision is affirmed on reconsideration where protester has not shown any error of law or fact which would warrant reversal of that decision.

Equity Federal Savings Bank (Equity) requests reconsideration of our decision in Equity Federal Savings Bank, B-219318, July 24, 1985, 85-2 C.P.D. ¶ _____, wherein we dismissed its protest against the terms of invitation for bids No. 8PE-517, issued by the General Services Administration for the lease of government-owned space in the Denver Federal Center in Denver, Colorado. We affirm the dismissal.

In its initial protest, Equity alleged that the solicitation was defective because it included space which Equity occupied under a contract allegedly giving Equity the right to possession until June 1986. In addition, Equity contended that GSA had ignored its obligation to ensure that a fair proportion of contracts are placed with small and disadvantaged businesses, such as Equity.

We dismissed the protest as not for consideration under our bid protest function. We noted that the bid protest provisions of the Competition in Contracting Act of 1984 (CICA), 31 U.S.C. §§ 3551-3556 (West Supp. 1985), which provide for the Comptroller General to decide bid protests, define a "protest" as a written objection to a solicitation by an executive agency "for the procurement of property or services" or the proposed award of such a contract, 31 U.S.C. § 3551. Accordingly, we concluded that a solicitation of offers to lease government-owned space is not a procurement or acquisition by a federal agency under the bid protest provisions of CICA.

We also noted that while our Bid Protest Regulations provide for the consideration of certain nonstatutory protests where the agency involved has agreed in writing to

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have its protests decided by our Office, 4 C.F.R. § 21.11 (1985), GSA had not agreed to have us decide protests concerning GSA's solicitation of offers to lease government-owned space.

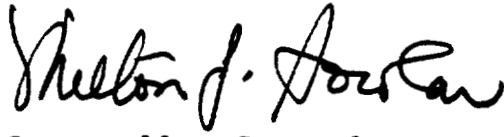
In its request for reconsideration, Equity contends that the proposed lease of government-owned space is a contract for both property, the space to be occupied, and services, the housekeeping services to be provided by GSA. It notes that section 2 of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. § 471 (1982), governing procurement by civil agencies, indicates that it was the intent of Congress in passing the Act to provide an "economical and efficient system for . . . the procurement and supply of personal property and nonpersonal services." It points out that section 103 of the Public Buildings Cooperative Use Act of 1976, 40 U.S.C. § 490(a)(16) (1982), which authorizes GSA to enter into leases of space in public buildings with firms engaged in commercial activities, requires that the leases:

"contain such terms and conditions and be negotiated pursuant to such procedures as the Administrator [of GSA] deems necessary to promote competition and to protect the public interest."

Equity argues that given this congressional intent to ensure that certain standards are met in the lease of government-owned space, CICA's bid protest provisions should be considered to apply to a protest against a solicitation for offers to lease government-owned space.

We disagree. As previously indicated, CICA defines the protests to be considered by our Office under CICA as objections to solicitations by an agency for a proposed contract, or to the award of such a contract, "for the procurement of property or services." By limiting the bid protest provisions of CICA to solicitations for the procurement by federal agencies of property or services, the Act thereby excludes solicitations for the supply by federal agencies of government-owned space. We note that the Federal Acquisition Regulation (FAR), which applies to "acquisitions," FAR § 1.103, 48 C.F.R. § 1.103 (1984), likewise defines acquisitions to mean the "acquiring by contract . . . of supplies or services . . . by and for the use of the Federal Government through purchase or lease," FAR, § 2.1.

Since Equity has not shown any error of fact or law in our prior decision, the dismissal is affirmed. See All-States Railroad Contracting, Inc.--Reconsideration, B-218226.2, Mar. 15, 1985, 85-1 C.P.D. ¶ 314.

for 
Comptroller General
of the United States