

DECISION



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

FILE: B-220856.2 **DATE:** March 7, 1986
MATTER OF: Paxson Electric Company--Request for
Reconsideration

DIGEST:

Where GAO decides protest in response to specific expression of interest from United States District Court, reconsideration request filed by the protester is dismissed--without consideration on the merits--because court has not expressed an interest in having GAO reconsider its decision.

Paxson Electric Company (Paxson) requests reconsideration of our decision in Paxson Electric Company, B-220856, Feb. 3, 1986, 86-1 C.P.D. ¶ ____, and requests that it be awarded proposal preparation costs and the costs of filing its protest and request for reconsideration. In our prior decision, we denied Paxson's protest against the award of a contract to Engineering Design Group, Inc. (EDG), under request for proposals No. N68248-82-R-2029 issued by the Naval Facilities Engineering Command for the acquisition of several supervisory control and data acquisition systems for the naval submarine base at Kings Bay, Georgia.

Initially, in order to decide Paxson's entitlement to costs, we first would have to reconsider our decision on the merits, since we previously have held that a protester is not entitled to costs where the protest is denied. R.S. Data Systems--Reconsideration, B-220961.2, Dec. 18, 1985, 65 Comp. Gen. ____, 85-2 C.P.D. ¶ 687. In these circumstances, we view Paxson's claim for costs as, in effect, a further request for reconsideration of the merits of the protest.

We dismiss the request for reconsideration.

After Paxson's initial protest was filed with GAO, Paxson filed a civil action (No. 285-257) against the award to EDG in the United States District Court for the Southern District of Georgia, Brunswick Division. The court subsequently advised us that it was interested in our advisory opinion on the issues raised in Paxson's protest, and our decision was issued in response to the court's request.

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Our Bid Protest Regulations, 4 C.F.R. part 21 (1985), require the dismissal of any protest where the matter involved is the subject of litigation before a court of competent jurisdiction, unless the court requests a decision by our Office. 4 C.F.R. § 21.9(a) (1985); Monterey City Disposal Service, Inc.--Reconsideration, B-218624.2; B-218880.2, Sept. 19, 1985, 85-2 C.P.D. ¶ 306. Moreover, it is the policy of our Office not to decide such matters when they are presented in the context of a request for reconsideration and the court has not expressed an interest in having us reconsider our decision. See Monterey City Disposal Service, Inc.--Reconsideration, B-218624.2; B-218880.2, supra; Sea-Land Service, Inc., B-192149, Oct. 16, 1978, 78-2 C.P.D. ¶ 278.

Here, we complied with the district court's request that we provide our views, and there is no indication that the court expects us to reconsider the earlier decision. In addition, we have been advised by the court that Paxson's civil action is still pending before the court. Thus, in the absence of an expression from the court that we reconsider the matter, Paxson's request for reconsideration is dismissed. Monterey City Disposal Service, Inc.--Reconsideration, B-218624.2; B-218880.2, supra.



Robert M. Strong
Deputy Associate
General Counsel