



The Comptroller General
of the United States

Washington, D.C. 20548

Halperin - PL

Decision

Matter of: Tel-Med Information Systems--
Request by Immigration and Naturalization
File: Service for Reconsideration
B-225655.2
Date: August 4, 1987

DIGEST

1. An agency's request for reconsideration filed more than 1 month after the decision is issued is dismissed as untimely; agency may not await technical advice before requesting reconsideration.
2. Recommendation in prior decision that contract be terminated if feasible is withdrawn where agency has demonstrated that termination is not feasible because contract has been fully performed and paid for.

DECISION

By letter filed with our Office on July 8, 1987, the Immigration and Naturalization Service (INS) requests reconsideration of our decision in Tel-Med Information Systems, B-225655, June 2, 1987, 66 Comp. Gen. ____, 87-1 C.P.D. ¶ ____, and reports on its actions taken in response to the recommendations in that decision. The decision sustained, in part, a protest by Tel-Med Information Systems against the award of a contract to Apec Technology Ltd. by INS for two automatic multi-line disc telephone answering systems under invitation for bids (IFB) No. CO-25-86. We determined, as the protester alleged, that Apec's bid was nonresponsive because Apec's descriptive literature accompanying its bid took exception to one of the requirements of the IFB. However, since we had been advised that the two Apec systems under the contract had been delivered, but not installed, we recommended that INS terminate Apec's contract if feasible and if INS terminated Apec's contract, INS should make award to one of the other bidders, if appropriate, or resolicit its needs.

We dismiss the request for reconsideration.

In its request for reconsideration, INS argues that Apec's descriptive literature did not take exception to the IFB's

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requirements and therefore Apec's bid was properly accepted as responsive. INS cites no new facts in this request; it only proffers additional technical arguments. INS contends that its request for reconsideration was timely filed on July 8, 1987, because it was filed within 10 working days of when the contracting officer received comments on our decision by technical experts in INS's information services branch. We disagree and conclude that the request for reconsideration is untimely filed.

Our Bid Protest Regulations require that a request for reconsideration be filed within 10 working days of when the basis for reconsideration is known or should have been known, whichever is earlier. 4 C.F.R. § 21.12(b) (1986); Tri-State Construction--Reconsideration, B-225023.2, Dec. 4, 1986, 86-2 C.P.D. ¶ 645. A contracting agency's request for reconsideration is held to the same stringent filing standard as the request of any other party. Indian and Native American Employment and Training Coalition--Request by Department of Labor for Reconsideration, B-218973.2, Oct. 2, 1985, 85-2 C.P.D. ¶ 371.

We were advised by INS that it received our June 2 decision on approximately June 5, 1987. The 10-day period for reconsideration begins to run with the agency's receipt of our decision, and the time period for filing is not tolled while a party seeks advice or information from others. Tri-State Construction--Reconsideration, B-225023.2, Dec. 4, 1986, 86-2 C.P.D. ¶ 645; Tenavision, Inc.--Reconsideration, B-207505.2, Aug. 17, 1982, 82-2 C.P.D. ¶ 137. Therefore, INS's request for reconsideration, filed on July 8, 1987, over 1 month after our decision was issued, is untimely and will not be considered. Indian and Native American Employment and Training Coalition--Request by Department of Labor for Reconsideration, B-218973.2, supra.

The request for reconsideration is dismissed.

However, INS reports that Apec has already fully "performed the contract and received payment in full," and that for numerous additional cogent reasons, termination of Apec's contract is not possible. Therefore we withdraw our recommendation that INS terminate Apec's contract.

for 
Comptroller General
of the United States