

J. Melody



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Tek-Lite, Inc.--Reconsideration
File: B-227843.3, B-227843.4, B-227843.5
Date: November 6, 1987

DIGEST

Reconsideration request is denied where not supported by timely presented information establishing that prior decision was based on error of fact or law.

DECISION

Tek-Lite, Inc. requests reconsideration of our decision Tek-Lite, Inc., B-227843.2, Oct. 2, 1987, 87-2 CPD ¶ , in which we denied Tek-Lite's protest under Defense Logistics Agency (DLA) request for proposals (RFP) No. DLA400-87-R-5564. We deny the request.^{1/}

Tek-Lite argued in its original protest that an evaluation factor--reflecting royalty fees to be paid if the contractor furnished items conforming to a certain value engineering change proposal (VECP) (instead of an alternative standard military specification)--should not be added to Tek-Lite's bid because Tek-Lite is the firm that developed the VECP. Tek-Lite also argued that the evaluation factor should not be added because some bidders on prior procurements allegedly have represented that they would not use the VECP--and thereby have avoided application of the evaluation factor--but then, in performing the contract, have in fact furnished VECP items.

We denied the protest on the grounds that (1) it is proper to add the evaluation factor to any bid--even Tek-Lite's--based on furnishing VECP items, since the factor reflects royalty fees that are part of the total cost to the government of purchasing VECP items; and (2) there is no evidence that DLA improperly has accepted VECP items under prior contracts and, even if there were such evidence, the

^{1/} Tek-Lite casts its arguments in terms of a protest, but since the arguments relate directly to our prior decision, we view the matter as a reconsideration request.

remedy would be for the agency to stop the practice, not to eliminate the evaluation factor.

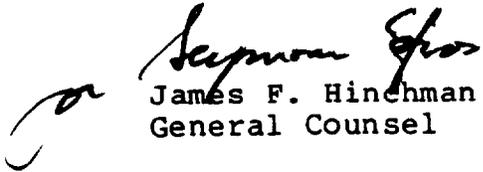
Tek-Lite raises three different arguments on reconsideration. First, Tek-Lite reiterates the argument from its original protest that the evaluation factor should not be applied because DLA improperly has accepted VECP items from contractors who did not bid on a VECP basis. This constitutes no more than disagreement with our decision rejecting this argument, and as such does not warrant reconsideration. See ESS Corp.--Request for Reconsideration, B-226960.2, Sept. 17, 1987, 87-2 CPD ¶ 264.

Secondly, Tek-Lite cites a prior DLA contract under which the agency allegedly accepted VECP items from a contractor who had bid based on the standard specification, presumably in response to the statement in our decision that there had been no showing of improper acceptance by DLA of VECP items under prior contracts. Our Regulations do not permit a piecemeal presentation of evidence, information, or analysis. Where, as here, a protester submits information that could have been timely presented during our consideration of the earlier protest, the information does not now provide a basis for reconsideration. See 4 C.F.R. § 21.12(a) (1987); AWD Mehle GmbH--Request for Reconsideration, B-225579.2, June 11, 1987, 87-1 CPD ¶ 584.

Finally, Tek-Lite states that it recently received a copy of a modification to its DLA contract under which it developed the VECP in question here. This modification increases the price under that contract and provides for offsetting the increase against royalty fees Tek-Lite otherwise would receive. DLA would have to purchase 52,844 VECP units before Tek-Lite would again receive royalty fees. With this information in hand, Tek-Lite argues that the conclusion in our prior decision--that applying the evaluation factor to the firm's bid of VECP items is proper because it reflects the cost to the government--should be changed; since royalty fees now will not be paid to Tek-Lite for 52,844 units, the evaluation factor no longer reflects a cost to the government and thus should not be added to Tek-Lite's bid. We reject this argument for the same reason stated above. The modification is dated October 16, 1986, and while Tek-Lite claims it only recently became aware of the amendment, it is apparent to us that the firm should have been aware of an increased payment under its contract at some point before a year had passed; we will not assume that DLA imposed a higher contract price on Tek-Lite without the firm's knowledge. Since Tek-Lite was or should have been aware of

this contract modification when we considered its original protest, we will not now reconsider our decision based on this information.

The request for reconsideration is denied.


James F. Hinchman
General Counsel