



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: General Electric Co.--Reconsideration
File: B-228465.2
Date: December 21, 1987

DIGEST

GAO will not reconsider a decision where the protester, the fourth low bidder, in its initial protest challenged only the awardees qualifications, but failed to challenge bidders two and three but now tries to do so through a request for reconsideration.

DECISION

General Electric Company (GE) requests reconsideration of our decision in General Electric Co., B-228465, Nov. 20, 1987, 87-2 CPD ¶ _____, in which we dismissed its protest against a contract award to Gulf Electric Construction Company under invitation for bids (IFB) No. F08651-87-B0094, issued by the United States Air Force, Eglin Air Force Base, Florida.

We affirm our decision.

By letter received in our Office on October 8, 1987, GE stated that it submitted the second low bid and argued that Gulf's low bid should be rejected because Gulf failed to meet the IFB's definitive responsibility criteria which required that the contractor have been involved in Polychlorinated Biphenyls (PCBs) servicing for at least 5 years.

Our review of the abstract of bids showed that GE was the fourth, rather than the second low bidder. Since GE did not protest any possible award to the second and third low bidders, we dismissed GE's protest on the basis that GE was not an interested party to have the matter considered on the merits. See 4 C.F.R. § 21.0(a); Charles J. Dispenza & Assocs., B-224524, Dec. 3, 1986, 86-2 CPD ¶ 636.

In its request for reconsideration, GE alleges that while it was in fact the fourth low bidder, the substantive argument in its initial protest is implicitly directed at all three

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low bidders. GE asserts that in its initial protest it really was arguing that the Air Force improperly evaluated the bidders' relevant experience by considering the experience of the bidders' proposed subcontractors. GE now argues that a ruling in its favor would result in a reevaluation of bids without reference to subcontractor experience.

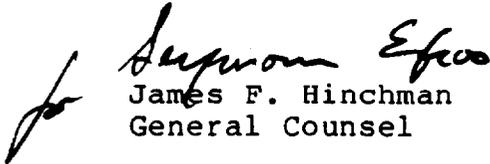
In response to GE's initial protest, the Air Force did inform this Office that its preliminary evaluation concludes that both the second and third low bidders appear to meet the definitive responsibility criteria. GE's protest, however, stated only that Gulf, the low bidder, failed to meet the definitive responsibility criteria.

Since GE indicated in its protest that it was second low, our Office had no basis to determine that GE was directing its protest toward the second and third low bidders. We read GE's protest as involving exactly what the firm said it involved--the failure of Gulf to meet definitive responsibility criteria as alleged by the second low bidder--and decided the protest on that basis. Under our Bid Protest Regulations, we will reconsider a decision where the party requesting us to do so demonstrates that our initial decision was based on an erroneous conclusion of law or failed to consider relevant information. 4 C.F.R. § 21.12(a). Information not previously considered refers to information that we overlooked or information that the protester did not have access to when the initial protest was filed. S.A.F.E. Export Corp.--Request for Reconsideration, B-215022.4, Sept. 17, 1984, 84-2 CPD ¶ 298. Our regulations do not provide for this Office to reconsider a decision because a protester failed to explain the basis of its protest adequately.

GE relies on our decision, Eastman Kodak Co.--Request for Reconsideration, B-220646.2, Mar. 24, 1986, 86-1 CPD ¶ 289, in an attempt to justify on reconsideration the application of the substance of GE's initial protest to the second and third low bidders. In reconsidering Eastman Kodak's protest, which we dismissed because Kodak was third low offeror and thus not an interested party under our Bid Protest Regulations, we considered the applicability of its protest to both the low and second low offeror. However, the Eastman Kodak case involved a negotiated procurement where it was possible that the protester was unaware that it was not the second low offeror. This protest involves a sealed bid procurement where GE had an opportunity to

examine its competitors' bids after bid opening on September 23, 1987. GE could therefore accurately determine its status, determine the acceptability of other bidders and properly submit its protest against acceptance of all three bids in a timely manner.

Our initial decision is affirmed.

 James F. Hinchman
General Counsel