FORMICA

Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Manufacturing Technology Solutions--Request for Reconsideration

File: B-237415.2

Date: May 4, 1990

Mark S. Wah, for the protester.
John Formica, Esq., and John Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Arguments considered and rejected by the General Accounting Office in denying original protest will not support request for reconsideration.

2. Determinations of law in decisions issued by the General Accounting Office in resolving bid protests will generally be followed unless overruled by a subsequent decision, statute or regulation.

DECISION

Manufacturing Technology Solutions (MTS) requests reconsideration of our decision, Manufacturing Technology Solutions, B-237415, Jan. 22, 1990, 90-1 CPD ¶ 88, in which we denied MTS's protest of an award of a contract to Foxco, Inc., under request for proposals (RFP) No. DAAD05-89-R-0891, issued by the Department of the Army for milling machines. We affirm the decision.

In its protest, MTS argued that the milling machines offered by Foxco did not comply with Department of Defense Federal Acquisition Regulation Supplement (DFARS) § 225.7008 (DAC 88-4 and 88-8), limiting the Army to purchasing machine tools manufactured only in the United States or Canada. Specifically, MTS argued that the cost of the domestic components in Foxco's milling machines did not exceed 50 percent of the cost of all the machines' components as required by DFARS § 225.7008, in that what is produced in the United States are actually machine tool accessories, rather than components, and therefore should not be considered in determining the domestic content of the

milling machines. We rejected this argument, stating that where the Army is purchasing milling machines with accessory parts which are deemed necessary for the machines to comply with agency needs, it would not be reasonable to exclude the cost of these parts in determining whether the milling machines are domestic products.

MTS also argued in its protest that Foxco's machines did not meet the requirement for United States or Canadian manufacture, because the manufacturer was merely assembling components on the completed machine "base iron" imported from Spain. We also rejected this argument, holding that the requirement of United States or Canadian manufacture was met when the United States firm assembles the components necessary to transform an imported "base iron" into a machine which meets the solicitation's specifications.

In its request for reconsideration, MTS reiterates these arguments, which we have already considered and rejected. Under our Bid Protest Regulations, a party requesting reconsideration must show that our prior decision contains either errors of fact or law or that the protester has information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1989). Repetition of arguments made during the original protest or mere disagreement with our decision does not meet this standard. San Sierra Business Sys.--Request for Recon., B-233858.2, Feb. 1, 1989, 89-1 CPD ¶ 104.

MTS also argues that our citation of Morey Machinery, Inc., B-233793, Apr. 18, 1989, 89-1 CPD ¶ 383, in support of the proposition that the cost of needed accessories is to be considered in determining whether the machine as a whole meets the domestic content requirement is "an invalid case precedent" because the underlying procurement was canceled prior to our ruling on a reconsideration request from the protester. There is no merit to this argument. In every other forum of which we are aware that decides cases or controversies, a determination of law will generally be followed unless it has been overruled by a subsequent decision, statute or regulation. See, e.g., 2 Am. Jur. 2d Administrative Law § 478; 20 Am. Jur. 2d Courts §§ 183, 231. Thus, the precedential value of Morey Machinery, Inc., B-233793, supra, was not affected by the fact that we did not rule on the request for

reconsideration. Furthermore, the Morey case was not the only precedent for our decision; we also cited A & D Machinery Co., B-234711, June 15, 1989, 89-1 CPD ¶ 566, in support of the same proposition.

We affirm the decision.

James F. Hinchman
General Counsel