



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Liquipharm, Inc.--Reconsideration

File: B-245069.2

Date: August 27, 1991

Barry Sugarman for the protester.
Katherine I. Riback, Esq., John Van Schaik, Esq., and John Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

General Accounting Office does not consider bid protests of procurements conducted by the Army and Air Force Exchange Service because it is nonappropriated fund instrumentality and therefore not a federal agency.

DECISION


Liquipharm, Inc. requests that we reconsider our August 6, 1991, dismissal of its protest concerning the terms included in an Army and Air Force Exchange Service (AAFES) solicitation. We dismissed the protest due to a lack of jurisdiction over procurements by AAFES, since it is a nonappropriated fund instrumentality and therefore not a federal agency. In its request for reconsideration, Liquipharm argues that we should take jurisdiction over its protest because AAFES is an appropriated fund activity.

We deny the reconsideration request.

As we stated in our previous dismissal, our bid protest jurisdiction is limited to procurements of federal agencies, 31 U.S.C. § 3551 (1988), and nonappropriated fund activities are not federal agencies. 4 C.F.R. § 21.3(m)(8) (1991), as amended by 56 Fed. Reg. 3,759 (1991); ATD-Am. Co., B-240648, July 18, 1990, 90-2 CPD ¶ 49. The AAFES, the activity conducting the protested procurement, is established as and has long been recognized as a nonappropriated fund activity of the Department of Defense. See, for example, Departments of the Army and Air Force, Army and Air Force Exch. Serv., B-235742, Apr. 24, 1990, 90-1 CPD ¶ 410; Optical Servs. Co., B-214150, Jan. 31, 1984, 84-1 CPD ¶ 134. While Liquipharm asserts the contrary, it has provided nothing in support of

its position. Under the circumstances, we have no basis for considering this matter further.

The request for reconsideration is denied.


Ronald Berger
Associate General Counsel