



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: TSI Microelectronics Corp.--Reconsideration

File: B-243889.2

Date: November 4, 1991

Robert Bland for the agency,
Christina Sklarew, Esq., Office of the General Counsel, GAO,
participated in the preparation of this decision.

DIGEST

Request for reconsideration of prior decision denying protest against sole-source acquisition is denied where protester merely disagrees with our conclusions and complains that our Office should have conducted an independent investigation of the technical matters alleged in the protest, without showing any error of fact or law in the decision.

DECISION

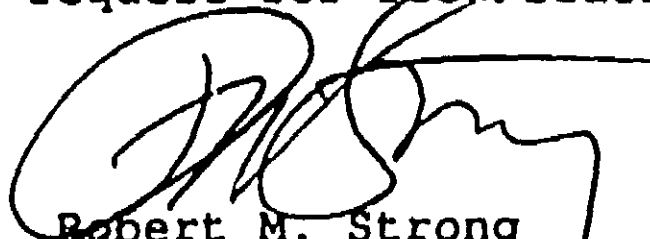
TSI Microelectronics Corporation requests reconsideration of our decision in TSI Microelectronics Corp., B-243889, Aug. 20, 1991, 91-2 CPD ¶ 172. TSI had protested the Defense Logistics Agency's (DLA) noncompetitive award of a contract for a particular microcircuit under request for proposals No. DLA900-91-R-A163, which was issued by the Defense Electronics Supply Center (DESC), a purchasing activity of DLA. TSI alleged in its protest that it had offered an alternate part that would satisfy DESC's requirements, and argued that the agency could not justify restricting the procurement to the original manufacturer of the microcircuit because it had not demonstrated the technical unacceptability of TSI's alternate part.

We found that the Competition in Contracting Act, 10 U.S.C. § 2304(c)(1) (1988), permitted a sole-source procurement in this case because the agency had reasonably determined that the microcircuit was only available from one source. This decision was based on the agency's un rebutted assertion that the government does not possess or have rights in the technical data necessary for a competitive procurement and does not have the current capability to test an alternate item to ensure it will function properly in the aircraft navigation and weapons-fire control computers for which it is required.

Under our Bid Protest Regulations, to obtain reconsideration the requesting party must show that our prior decision may contain either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1991).

On reconsideration, TSI argues that our decision was erroneous and asks for "an explanation for GAO's failure or refusal to investigate the technical facts of our protest." Our Office does not conduct independent investigations as part of our bid protest function; our decisions are based on our review of the written record which consists of the submissions of the parties. See MIDDCO, Inc.--Recon., B-235587.2, Oct. 31, 1989, 89-2 CPD ¶ 402. Here, the agency persuasively established through documentary evidence, unrebutted by the protester that the agency lacked adequate technical data and had compatibility concerns which supported the sole-source microcircuit award. The record showed that the agency's previous attempts to competitively solicit this family of microcircuits had ended in failure since all items purchased, including a related microcircuit supplied by TSI, had failed to perform properly. TSI's general disagreement with our decision does not establish a basis for reconsideration of our decision.

The request for reconsideration is denied.



Robert M. Strong
Associate General Counsel