



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Joy Construction Company

**File:** B-246298

**Date:** January 3, 1992

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Joy M. Broer for the protester.  
M.N. Halstead for Piedmont Construction Co., interested party.  
Adele R. Vine, Esq., General Services Administration, for the agency.  
Henry R. Wray, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest of agency's termination of contract is dismissed where protester provides no basis to challenge agency's conclusion that initial contract award was improper.

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### DECISION

Joy Construction Company (Joy) protests the action of the General Services Administration (GSA) in terminating a contract awarded to Joy under request for proposals (RFP) No. GS-06P-91-GYC-0075, providing for the relocation of U.S. Attorney space at the Federal Building and U.S. Courthouse in Lincoln, Nebraska.

We dismiss the protest.

The RFP, which was issued on August 22, 1991, provided that the low bidder for purposes of award would be the responsible bidder offering the lowest price for the base bid. It further provided that offers could be modified by written or telegraphic notice. Proposals were due on September 20, 1991, at 3:00 P.M.

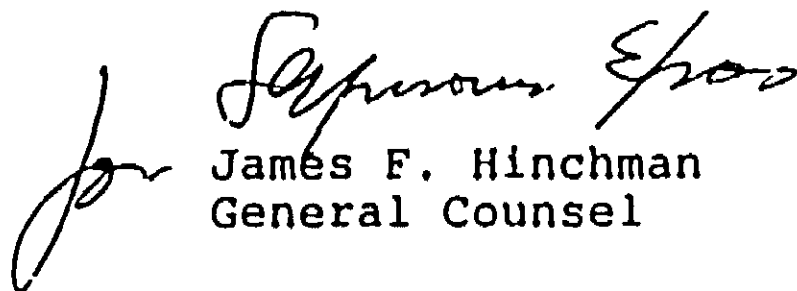
Four proposals and two modifications were received at the designated GSA location by the due date. However, as a result of mishandling by GSA personnel, the modifications were separated from the package when the proposals were delivered to the GSA contracting officer. Based on a review of the original proposals without the modifications, the contracting officer determined that

Joy was the low bidder. Therefore, on October 11 she mailed a notice of award to Joy.

In a conversation the next day with a representative of another bidder, Piedmont Construction Co., the contracting officer discovered that Piedmont had submitted one of the misplaced modifications. She subsequently located the modification and determined that, on the basis of this modification, Piedmont was actually the low bidder. On October 15 the contracting officer notified Joy that the award to it was withdrawn, and on October 22 Joy's contract was formally terminated for the convenience of the Government. No further action has been taken pending the outcome of the protest.

Our Office will entertain protests of contract terminations when the termination is based on an agency's conclusion that the initial award was improper and the protester challenges that conclusion. CST Environmental, Inc., B-241542.2, March 13, 1991, 91-1 CPD ¶ 429. However, Joy has provided no basis to challenge the agency's conclusion in this case. The record here, which Joy does not dispute, clearly establishes that the initial award to Joy was improper. It is unfortunate that the misplaced bid modification was not discovered prior to the award. Nevertheless, the agency had no alternative in these circumstances but to rescind the award.

Accordingly, the protest is dismissed.

  
James F. Hinchman  
General Counsel