

Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** MEDLINC Transcriptions--Reconsideration

**File:** B-246896.2

**Date:** February 14, 1992

Calvin J. Ortique for the protester.  
Mary G. Curcio, Esq., and Andrew T. Pogany, Esq., Office of  
the General Counsel, GAO, participated in the preparation of  
the decision.

### DIGEST

Decision dismissing protest is affirmed where basis of  
request for reconsideration--the General Accounting Office's  
failure to consider allegation that agency improperly  
modified the awardee's contract--involves an issue of  
contract administration which is not for consideration by  
our Office.

### DECISION

MEDLINC Transcriptions requests reconsideration of our  
December 6, 1991, dismissal of its protest against the award  
of a contract under solicitation No. 689-9-92, issued by the  
Department of Veterans Affairs.

We affirm the dismissal.

The solicitation was issued for medical transcription  
services. After the contract was awarded, MEDLINC protested  
to our Office that the awardee submitted a below-cost bid  
and that the awardee, an out-of-state vendor, could not meet  
the contract specification requiring that non-medical  
transcriptions be delivered by messenger service within  
24 hours after they are prepared. MEDLINC also complained  
that after the contract award the agency relaxed the  
contract requirements for the awardee.

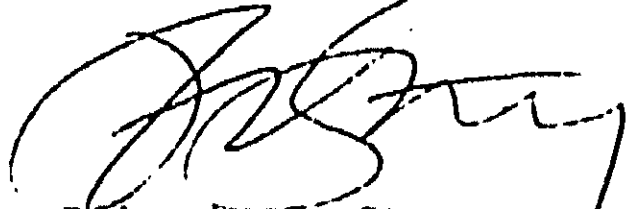
We dismissed the protest because a protester's claim that a  
bidder or offeror submitted an unreasonably low price or  
even a price that is below the cost of performance concerns  
whether the contractor is responsible. See JWK Int'l Corp.,  
B-237527, Feb. 21, 1990, 90-1 CPD ¶ 198. Likewise, whether  
a bidder or offeror is capable of performing a contract  
concerns the contractor's responsibility. Our Office will  
not review a contracting officer's affirmative determination

of a contractor's responsibility absent a showing of possible fraud or bad faith on the part of procurement officials, or that definitive responsibility criteria in the solicitation may have been misapplied. See King-Fisher Co., B-236687.2, Feb. 12, 1990, 90-1 CPD ¶ 177. Since there was no such showing, we had no basis to review the protest.

In its request for reconsideration, MEDLINC complains that we did not address the third basis of its protest--that after the contract award the procuring agency made changes to the contract that gave the awardee an unfair advantage. In its protest, MEDLINC made this contention in support of its position that the awardee had submitted an "irresponsible bid." While we did not address this basis of protest in our decision separate from the issue of the awardee's responsibility, this issue is also not for consideration by our Office.

Our Office considers bid protest challenges to the award or proposed award of contracts. 31 U.S.C. § 3552 (1988). Therefore, we generally do not exercise jurisdiction to review matters of contract administration, which are within the discretion of the contracting agency and for review by a cognizant board of contract appeals or the United States Claims Court. See 4 C.F.R. § 21.3(m)(1) (1991), as amended by 56 Fed. Reg. 3759 (1991); C3, Inc., B-233742.11, Dec. 27, 1990, 90-2 CPD ¶ 522. The few exceptions to this rule include situations where it is alleged that a contract modification improperly exceeds the scope of the contract and therefore should have been the subject of a new procurement, CAD Language Sys., Inc., 68 Comp. Gen. 376 (1989), 89-2 CPD ¶ 364; where the protest alleges that the exercise of a contractor's option is contrary to applicable regulations, Bristol Elecs., Inc., B-193591, June 7, 1979, 79-1 CPD ¶ 403; or where an agency's basis for contract termination is that the contract was improperly awarded. See Condotels, Inc.; Chester L. and Harvelene Lewis, B-225791; B-225791.2, June 30, 1987, 87-1 CPD ¶ 644. None of these exceptions has been alleged to apply to this case. Accordingly, there is no basis for us to consider this issue.

The dismissal is affirmed.



Robert M. Strong  
Associate General Counsel