



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: TeleLink Research, Inc.--Reconsideration

File: B-247052.2

Date: September 28, 1992

Jacob B. Pompan, Esq., Pompan, Ruffner & Bass, for the protester.

Robert C. Arsenoff, Esq., and John Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration is denied where it is based on information that could have been submitted during the course of the General Accounting Office's consideration of the protest but was not and where the request does not address one of the principal bases set forth in the prior decision for denying the protest.

DECISION

TeleLink Research, Inc. (TLR) requests that we reconsider our decision, TeleLink Research, Inc., B-247052, Apr. 28, 1992, 92-1 CPD ¶ 400, in which we denied its protest against the award of a computer logistics services contract by the Department of the Navy to ACI Technologies, Inc. under request for proposals (RFP) No. N00140-91-R-BB01.

We deny the request for reconsideration.

TLR in its initial protest alleged, among other things, that, ACI--through a subcontractor (QSOFT)--misrepresented the continuing availability of one of its proposed key personnel in its best and final offer (BAFO): Mr. David I. Dannelley, who was offered as one of five technicians under the RFP personnel category of Engineering Technician II (ETII). In support of this allegation, TLR provided an affidavit from Mr. Dannelley indicating that, although he had in November 1990 accepted in writing a contingent offer of employment at \$14.35 per hour from QSOFT as an ETII, he had also been presented with another offer of employment at \$12.55 per hour by QSOFT in February 1991 shortly after the submission of initial proposals. In reference to the February 1991 transaction, Mr. Dannelley's affidavit stated that he "rejected that offer," but it did not address

whether he would continue to be available to QSOFT at the higher salary rate negotiated the previous November.

Based on Mr. Dannelley's account of the February 1991 transaction with QSOFT, TLR argued in its protest, and continues to argue in its request for reconsideration, that the oral rejection of the "new offer" of employment at \$12.55 per hour operated to negate his earlier written agreement to work for QSOFT at \$14.35 per hour as an ETII under the contract to be awarded under the RFP.

We denied this aspect of TLR's protest for two reasons. First, we found that the record was unclear as to the effect of Mr. Dannelley's rejection in February 1991 of an offer from QSOFT on the November 1990 written agreement between the parties. We were, thus, not prepared to conclude that QSOFT and ACI did not have a reasonable basis for presuming that, based upon his written commitment, Mr. Dannelley would be available at the time BAFOs were submitted.

Second, we questioned the impact of the submission of Mr. Dannelley's name as only one of five ETII positions and only 1 of 11 key personnel listed in the RFP. We further noted that the ETII position contained some of the least demanding educational requirements of the six labor categories set forth in the RFP.

TLR's principal argument in its request for reconsideration is that Mr. Dannelley's rejection of an offer of employment with QSOFT in February 1991 legally operated as a rejection of the earlier offer from QSOFT at a higher rate of pay. In support of this argument, TLR has submitted another affidavit from Mr. Dannelley in which he now states that when he rejected QSOFT's February 1991 offer he "intended and assumed that the November 1990 commitment letter was no longer effective."

As we pointed out in our decision, the various accounts of QSOFT's dealings with Mr. Dannelley resulted in a confusing record which did not warrant a conclusion that QSOFT acted unreasonably in believing that it had a validly accepted contingent offer with Mr. Dannelley.

Mr. Dannelley's subsequent affidavit, in which he states that he intended his February rejection to operate as a rejection of both employment offers, essentially contains matters which could have been presented for our consideration in the protester's comments on the agency report but were not and, therefore, this information does

not constitute a valid basis for reconsideration. Bid Protest Regulations, 4 C.F.R. § 21.12(a) (1992); Brown Assocs. Mgmt. Servs., Inc.--Recon., B-235906.3, Mar. 16, 1990, 90-1 CPD ¶ 299. In any event, Mr. Dannelley's subjective intent concerning the February transaction--which was apparently never clearly communicated to QSOFT--simply has no bearing on whether QSOFT acted reasonably in continuing to believe that he would be available to work under the initial offer.

Finally, we note that TLR's request for reconsideration does not address our second principal basis for denying its protest with respect to QSOFT's use of Mr. Dannelley's name in its BAFO--i.e., that the use of his name as one of five ETIIs did not materially affect the evaluation of competing proposals in this case. Our decision carefully distinguished the situation presented in this case from the facts in other cases where we sustained protests because the number and significance of key personnel who had allegedly been misrepresented indicated that the misrepresentations had a material impact on the evaluation and selection decisions.

We therefore conclude that TLR has not presented a sufficient basis warranting reversal or modification of our decision, and we deny the request for reconsideration. Brown Assocs. Mgmt. Servs., Inc.--Recon., supra.


for James F. Hinchman
General Counsel