



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

Decision

Matter of: Precision Kinetics--Reconsideration
File: B-249975.2
Date: March 12, 1993

Sid Zimmerman for the protester.
Jonathan H. Kosarin, Esq., Department of the Navy, for the agency.
Aldo Benejam, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration is denied where requesting party fails to show any legal or factual basis warranting reconsideration of prior decision.

DECISION

Precision Kinetics requests that we reconsider our dismissal of its protest challenging the award of a contract to Thomson Saginaw Ball Screw Co., Inc. under request for proposals (RFP) No. N00383-92-R-C270, issued by the Department of the Navy for ball screw assemblies, national stock number 1680-00-083-4453. We dismissed the protest because Precision Kinetics is not an interested party under our Bid Protest Regulations to protest the award. 4 C.F.R. § 21.0(a) (1992).

We deny the request for reconsideration.

The RFP contained source controlled specifications; Saginaw currently is the only approved source for the required item. Precision Kinetics asserted in its protest that the Navy unduly delayed acting upon its request for source approval for the part solicited here, and argued that award to Saginaw at a higher price than Precision Kinetics proposed was improper. Subsequent to the filing of the protest, the agency completed its review and denied Precision Kinetics's request for source approval. We dismissed the protest since, even if it were sustained, the protester would not be eligible for award because it is not an approved source for the required item. Since the protester is not eligible for award, Precision Kinetics lacks the economic interest required under our Bid Protest Regulations to challenge the

award to Saginaw. See 4 C.F.R. § 21.0(a); Technical Plastics Corp., B-230947, Apr. 28, 1988, 88-1 CPD ¶ 415.

Precision Kinetics argues that we should not have relied on our decision in Technical Plastics Corp. because, according to the protester, the discussion in that case concerning the awardee's status as the only approved source is only dicta. Precision Kinetics argues that we dismissed the protest in the cited case not because Technical Plastics was not an approved source, but because as the fourth low offeror it would not have been in line for award were the protest sustained.¹

Although Technical Plastics, as the fourth low offeror, would not have been in line for award if its protest were sustained, we found that Technical Plastics was "also not an interested party because [the awardee] was determined to be the only approved source for the needed supplies." Contrary to the protester's argument, therefore, we specifically found that, as a matter of law, Technical Plastics was not an interested party because it was not an approved source and therefore was ineligible for award. Similarly here, since Precision Kinetics is not an approved source for the ball screw assemblies, the firm is ineligible for award.

The protester also relies on our decisions in BWC Techs., Inc., B-242734, May 16, 1991, 91-1 CPD ¶ 474, and Rotair Indus., Inc., B-224332.2; B-225049, Mar. 3, 1987, 87-1 CPD ¶ 238, to argue that it is entitled to relief because, due to the Navy's delay in reviewing its request for source approval, Precision Kinetics was denied a reasonable opportunity to compete in this procurement.² The

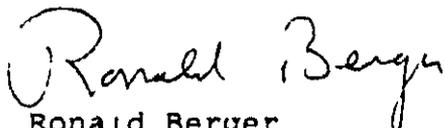
¹The protester also continues to argue, as it did in its original protest, that performance on Saginaw's contract should be stayed while Precision Kinetics seeks to qualify as an approved source, which the protester suggests should take no more than 270 days. Agencies need not delay procurements, however, to provide potential offerors with an opportunity to demonstrate their ability to become eligible for award. 10 U.S.C. § 2319(c)(5) (1988).

²Both cases cited involved an agency's failure to act on source approval requests submitted by the protesters approximately 2 years earlier in each case. In view of the delays, we recommended that the agencies involved complete their review of the then pending source approval requests and either qualify the firms or advise them accordingly. By contrast here, soon after Precision Kinetics filed its protest, the agency completed its review, and denied the protester's source approval request, essentially rendering the protest academic.

protester's reliance on those cases is misplaced. Precision Kinetics overlooks the fact that had we sustained its protest, the appropriate remedy would have been for the Navy to take precisely the action taken here--i.e., complete its review of the protester's request for source approval and either qualify the firm or advise it accordingly. In other words, by reviewing Precision Kinetics's source approval request, the Navy essentially granted the protester the relief we would have recommended had we sustained the protest.

While the protester disagrees with our decision to dismiss the protest, Precision Kinetics does not allege that the approval of Saginaw was improper. Further, except for complaining that the agency delayed reviewing its request, the protester has not challenged the Navy's decision denying its own request for source approval. Since the Navy found Saginaw to be the only approved source responding to the solicitation, Precision Kinetics is not an interested party to protest the award to Saginaw even though Precision Kinetics submitted a lower-priced proposal. See Technical Plastics Corp., supra.

The request for reconsideration is denied.



Ronald Berger
Associate General Counsel