



Comptroller General
of the United States

1103264

Washington, D.C. 20548

Decision

Matter of: NSI Technology Services, Inc.
File: B-256227; B-256227.2
Date: April 28, 1994

DECISION

NSI Technology Services, Inc. protests the conduct of a procurement by the National Aeronautics and Space Administration (NASA) under request for proposals (RFP) No. RFP2-35234(ADK) for technical support services for the Kuiper Airborne Observatory and the Data Acquisition and Distribution System. NSI claims that Serv-Air, Inc., one of its competitors and a participant in this procurement, has gained an improper competitive advantage over NSI.

We dismiss this protest as academic because Serv-Air has withdrawn from the competition.

NSI's protest here springs from NASA's action in an earlier procurement that was also the subject of a bid protest by NSI. During the course of that protest, NASA released a copy of NSI's protest letter to Serv-Air despite a legend placed on each page of the letter advising that it "should not be disclosed except to appropriate officials of NASA." NSI supplemented its earlier protest with a contention that NASA's release of NSI's protest letter should result in cancellation of the procurement or some other corrective action.

Our prior decision--on both NSI's initial filing and its supplemental issue regarding the release of documents--denied NSI's contention that NASA should cancel the procurement and resolicit for the services at issue there because NASA had already made its selection decision at the time the protest letter was released to Serv-Air. Thus, our Office concluded that there could be no competitive harm to NSI related to the award of that contract. NSI Technology Servs. Corp., B-253797.4, Dec. 29, 1993, 93-2 CPD ¶ 344.

In this protest, NSI does not challenge our earlier decision, but claims that the release of information during that protest gives Serv-Air an improper competitive advantage in this procurement. NSI also supplemented this protest (B-256227.2) with a claim that Serv-Air had access

to other information--i.e., NSI's proposals in other procurements--that would provide an additional improper advantage to Serv-Air.

By letter dated April 5, 1994, Serv-Air notified NASA contracting officials that it was withdrawing from any consideration for award under this solicitation. In our view, Serv-Air's withdrawal from this competition renders academic NSI's claim that Serv-Air has an improper competitive advantage here. Our Office will not consider a protest where subsequent events have caused the protest to have no practical consequence, and thus, purely academic interest. Integrity Mgmt. Int'l, Inc., B-220004.3, Jan. 17, 1986, 86-1 CPD ¶ 56.

To the extent that NSI also claims that NASA officials are biased against it, we conclude that NSI's protest is premature. Since the agency has not made a selection decision--and, in fact, NSI could yet be selected for award--we will not consider NSI's claim of agency bias at this juncture. See General Elec. Canada, Inc., B-230504, June 1, 1988, 88-1 CPD ¶ 512.

Accordingly, the protest is dismissed.

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