



United States  
General Accounting Office  
Washington, D.C. 20548

---

Office of the General Counsel

B-222279.4

August 11, 1986

The Honorable Don Nickles  
United States Senate

Dear Senator Nickles:

We refer to your letter dated July 2, 1986, expressing an interest in the protest of Eason & Smith Enterprises, Inc. (ESEI), of the award of a contract to Chemical Waste Management, Inc. (CWM), under invitation for bids (IFB) No. DLA200-86-B-0003, issued by the Defense Reutilization and Marketing Service, Defense Logistics Agency.

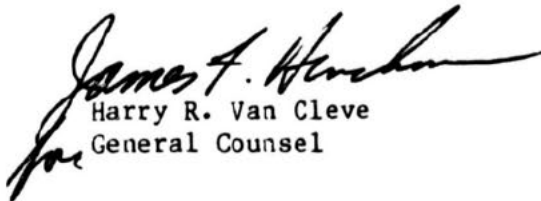
ESEI initially requested reconsideration of our March 14, 1985, dismissal of its protest on March 20, 1985 as untimely filed. ESEI, the third low bidder, contended that the low bidder had been improperly permitted to correct a mistake in bid and that the second low bidder was nonresponsive because it had failed to insert a bid price for certain items listed in the bid schedule. Our decision of April 18, 1986, concluded that while ESEI's protest was timely it was nevertheless not eligible to protest the award since it was not in line for award and an interested party even if the protest were sustained. See Eason & Smith Enterprises, Inc.--Request for Reconsideration, B-222279.2, Apr. 18, 1986, 86-1 C.P.D. ¶ 386. Subsequently, ESEI requested that we reconsider that decision. We denied that request by decision dated May 13, 1986, copy enclosed, because ESEI had not specified any errors of law made or information not previously considered in our prior decision to warrant review of its request for reconsideration. See Eason & Smith Enterprises, Inc.--Request for Reconsideration, B-222279.3, May 13, 1986, 86-1 C.P.D. ¶ 456.

You request that we reconsider the decision and inquire into the responsibility of the second low bidder, which allegation we found to be untimely in the May 13, 1986, decision and not for our consideration even if timely filed. Our Bid Protest Regulations, 4 C.F.R. § 21.12(b) (1986), require that requests for reconsideration must be filed within 10 working days after the basis for reconsideration is known. Since the request was not received in our Office until more than 6 weeks after our May 13 decision, it was untimely. In any event, as pointed out in the decision, it is our policy not to consider protests against an affirmative determination of responsibility except in circumstances not applicable here. 4 C.F.R. § 21.3(f).

However, in view of your concern relating to the magnitude of the correction of the low bid, we contacted the procuring agency to ascertain the type of error made by CWM in its bid. On item 0135, the disposal of 150,000 pounds of contaminated containers, CWM's bid showed a price of \$18 per pound, when in actuality the intended bid was \$0.18 per pound. The error was caused by a misplaced decimal point and since the \$0.18 bid was in line with the other bids submitted for the item, the correction was allowed as an obvious clerical error. Such action is contemplated by the Federal Acquisition Regulation, 48 C.F.R. § 14.406-2 (1985). See also Rut's Delivery Service, B-217286, Apr. 26, 1985, 85-1 C.P.D. ¶ 474.

We hope this adequately responds to your concerns.

Sincerely yours,

  
Harry R. Van Cleve  
General Counsel

Enclosures - 2