

DOCUMENT RESUME

02099 - [A1312273]

[Request for Reconsideration of Bid Preparation Costs].
B-188172. May 4, 1977. 2 pp.

Decision re: Bronfield Corp.; by Paul G. Dembling (for Elmer B. Staats, Comptroller General).

Issue Area: Federal Procurement of Goods and Services (1900).
Contact: Office of the General Counsel: Procurement Law I.
Budget Function: General Government: Other General Government
(806).

Organization Concerned: Department of the Navy; Small Business
Administration.

Authority: A.S.P.R. 1-705.4(c). 54 Comp. Gen. 1021.

The claimant requested reconsideration of a decision denying bid preparation costs, contending that the Navy improperly interfered with the Small Business Administration's (SBA) certificate of competency investigation. The allegation of the Navy's improper interference with SBA did not constitute evidence of arbitrary and capricious agency action in order to allow recovery of bid preparation costs. (RRS)

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DECISION



Feldman P.L.I.
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-188172

DATE: May 4, 1977

**MATTER OF: Bromfield Corporation -
Request for Reconsideration**

DIGEST:

Protester's unsupported allegation that Navy improperly influenced SBA during course of SBA's COC investigation of protester to cause denial of COC does not constitute evidence of arbitrary or capricious agency action to allow recovery of bid preparation costs.

By letter of March 13, 1977, Bromfield Corporation (Bromfield) requests reconsideration of a portion of our decision in Bromfield Corporation, B-188172, March 10, 1977, in which we held that Bromfield was not entitled to bid preparation costs since there was no evidence of arbitrary or capricious action by the procuring agency (Department of the Navy) toward the protester during its consideration of the question of Bromfield's responsibility in connection with a solicitation issued for the overhaul of the destroyer "Brumby."

The cited decision concerned Bromfield's protest against the refusal of the Small Business Administration (SBA) to issue the firm a certificate of competency (COC) after the question of Bromfield's capacity and/or credit had been referred by the contracting officer to the SBA in accordance with Armed Services Procurement Regulation § 1-705.4(c) (1976 ed.) In its request for reconsideration, Bromfield contends that the Navy improperly interfered with the SBA's COC investigation. The basis for that contention involves two telephone conversations that took place during the COC survey at Bromfield's facility between Mr. Hutton, the SBA representative performing the survey, and his superior in Washington, D. C., Mr. Moffit. In the first conversation, Mr. Hutton apparently requested additional time to complete his survey. Bromfield alleges that at that time Mr. Hutton was inclined to recommend issuance of a COC. Mr. Moffit apparently denied Mr. Hutton's request in the second conversation 2 hours later. Bromfield alleges that during that 2 hour period Mr. Moffit contacted the Navy contracting officer. Bromfield concludes that since the request for a time extension was rejected and issuance of the COC eventually denied, despite Mr. Hutton's initial favorable impression of Bromfield's responsibility, the Navy contracting officer, in his conversation with Mr. Moffit, improperly

B-188172

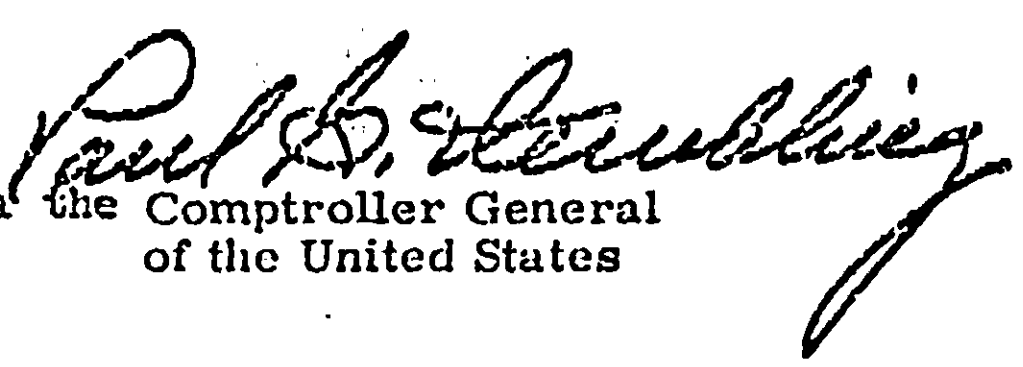
"interposed itself in what was an independent and evidently qualifying inspection by" Mr. Hutton. In this connection, Bromfield states:

"* * * Mr. Hutton was shocked both by the unprecedented rejection and some further discussion that caused Mr. Hutton's attitude toward Bromfield Corporation to summarily become negative. As our Planning Superintendent, Ernest Powers, commented, 'the survey (and our BRUMBY) award ended right there.' * * *"

Bromfield contends that such alleged Navy interference constituted arbitrary and capricious action entitling Bromfield to recovery of its bid preparation costs. See in this regard T & H Company, 54 Comp. Gen. 1021 (1975), 75-1 CPD 345.

We do not consider Bromfield's conclusion, based merely upon inferences drawn from a number of telephone conversations, Mr. Hutton's alleged reaction to his second conversation with Mr. Moffit, and the subsequent denial of a COC, as evidence of arbitrary and capricious action by the Navy. Moreover, as we indicated in our decision denying Bromfield's initial protest, the SPA's refusal to issue Bromfield a COC in connection with the subject solicitation was in fact based upon all information relevant to the matter.

Accordingly, our March 10 denial of Bromfield's claim for bid preparation costs is affirmed.


For the Comptroller General
of the United States