

DOCUMENT RESUME

02725 - [A1882933]

[Second Reconsideration of Procurement Practice]. B-188342. July 1, 1977. 2 pp.

Decision re: Miltope Corp.; by Robert F. Keller, Acting Comptroller General.

Issue Area: Federal Procurement of Goods and Services:
Definition of Performance Requirements in Relation to Need of the Procuring Agency (1902).

Contact: Office of the General Counsel: Procurement Law II.

Budget Function: General Government: Other General Government (806).

Organization Concerned: Department of the Navy; Department of the Air Force.

The protester requested reconsideration of a decision in which GAO declined to reconsider its protest concerning an agency determination that a less restrictive solicitation would meet the Government's needs. GAO reaffirmed its policy not to consider this matter under its bid protest functions. The dispute was one for resolution between the using and the procuring activities, and was inappropriate for review by GAO. (Author/SC)

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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-188342

DATE: July 1, 1977

MATTER OF: Miltope Corporation--Reconsideration (Second)

DIGEST:

GAO reaffirms policy not to consider as bid protest objection to agency determination that less restrictive specification will meet Government's needs.

Miltope Corporation requests reconsideration of our decision in the matter of Miltope Corporation--Reconsideration, B-188342, June 9, 1977, 77-1 CPD ____, in which we declined to reconsider its protest concerning agency determination that less restrictive solicitation will meet Government's needs, absent evidence of fraud or intentional misconduct. Underlying Miltope's complaint is the fact that the procuring activity has specified a PSI Peripheral Support Part as equal to Miltope's original equipment part for use in the UYK-5 shipboard computer.

In requesting reconsideration, Miltope asserts that it is in no way attempting to restrict competition and that it would even permit PSI to build and test its part to Miltope's specifications. It states that it has supplied all of the manufacturing drawings for the parts to both the Navy and Air Force. Moreover, Miltope contends that our prior decision is "totally inaccurate since you could not have found the time to discuss the matter with the * * * Navy * * *."

It is sufficient to note that the procuring activity's decision to open competition to the PSI part is essentially a determination that competition need not be restricted to the Miltope specification. Even if Miltope is correct in its view that the PSI part is viewed as unsatisfactory by the using agencies, the dispute is one for resolution between the using and procuring activities and for the reasons stated in our prior decision is inappropriate for review pursuant to our bid protest function.

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Accordingly, we reaffirm our policy not to consider such objections pursuant to our bid protest function.

R. F. Kellan
Deputy Comptroller General
of the United States