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H. Roman
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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20540

FILE: B-189737

DATE: February 23, 1978

MATTER OF: GTCO Corporation--Reconsideration

DIGEST:

Fact that agency requested extensions of offers to obtain time to evaluate low offeror's responsibility is insufficient basis to question agency's subsequent refusal to negotiate with protester to correct technical deficiency in proposal. Agency could conclude that existing need for item was enhanced by delay in resolving low offeror's responsibility and its refusal to conduct discussions was, under circumstances, reasonable and authorized.

This is a request for reconsideration of our decision, GTCO Corporation, B-189737, December 21, 1977, 77-2 CPD 488.

We held that pursuant to Armed Services Procurement Regulation § 3-805.1(a)(iii), the Navy properly rejected, without discussions, a nonconforming offer submitted in response to Request for Proposals (RFP) No. N60921-77-R0075 where the Navy reasonably concluded that the item being purchased was urgently required. We reached this determination over GTCO's objection that the time which was allowed to elapse between the date of contract award and the date of delivery of the purchased graphic digitizing system belied the claimed urgency of the requirement. In this regard, we stated that while, in some situations, post-award delays may give rise to questions concerning the actual urgency of the requirement, the mere existence of post-award delays in the instant case was not sufficient to establish that the Navy's determination of urgency was without a reasonable basis.

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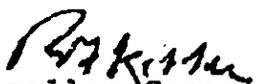
GTCO now requests that our Office reconsider our earlier decision based on its contention that three pre-award requests for price extensions, totaling nearly 100 days, refute the agency's claim that the digitizer was urgently required on such an urgent basis that discussions could not be held. It should be noted that GTCO stated in its response to the agency report that the agency was "predisposed to award the contract effectively on a sole source basis to Altek" because of the time and effort expended in disqualifying the low bidder and its failure to make any effort to consider the GTCO proposal. As indicated, our discussion only addressed the more explicit objection as to whether the post-award delays gave cause for questioning the determination not to negotiate with GTCO because of urgency.

In this regard, the Navy stated in its report on GTCO's protest:

"The delay in awarding a contract in this procurement was due to the time consumed in making the determination of nonresponsibility concerning Electrak Corporation, the low bidder."

In our view, this pre-award delay--which necessitated the requested extensions--could only have rendered the agency's need for the item even more acute. There is no evidence here of a deliberate delay. Under the circumstances, the Navy did not act unreasonably in concluding that the urgency of the requirement prevented the holding of technical discussions with GTCO. Consequently, GTCO's contentions regarding the requested price extensions furnish no basis for disturbing our earlier denial of GTCO's protest in which we concluded that the agency's decision not to negotiate with GTCO was authorized.

For the reasons stated, that decision is affirmed.


Deputy Comptroller General
of the United States