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Pro. LAW II
M. Eaton

DECISION



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

FILE: B-189933

DATE: July 7, 1978

MATTER OF: Die Mesh Corporation--Reconsideration

DIGEST:

1. Since protester does not advance any additional facts or legal arguments which show that earlier decision was erroneous, prior decision denying protest is affirmed.
2. Since conference is not necessary for prompt resolution of protest before GAO on reconsideration, protester's request for conference is denied.

Die Mesh Corporation (Die Mesh) requests reconsideration of our decision of June 7, 1978, which denied its protest of the Department of Energy's (DOE) proposed award of contracts to four firms for electric vehicles. National Motors Corporation and Electric Fuel Propulsion Corporation, who also protested, have not requested reconsideration.

In our decision of June 7 we concluded, inter alia, that it had not been proven that any offeror had been improperly preselected for award; that South Coast Technology met the requirement of the request for proposals that an offeror be "currently engaged in the business of manufacturing" electric vehicles; and that the issue of whether another offeror, EVA/Chloride Electrovan, Inc. (EVA/Chloride) qualified for award was moot since that firm had withdrawn its proposal from consideration.

We were aware in reaching our initial decision that the protester's contention that certain firms were "preselected" for award was based in part upon a telephone conversation between Die Mesh's counsel and a

private consultant which occurred during the selection process. The parties to that conversation differ in their accounts of it. In view of this conflict, and other factors discussed on page 35 of our June 7 decision, we concluded that Die Mesh had not established that an improper preselection had occurred.

In its request for reconsideration, the protester states that our Office, "without hesitation," "accepted" the consultant's version of the conversation and "disregarded" the protester's. We believe it is more accurate to state that the protester did not satisfy its burden of proof on this issue. The request for reconsideration adds nothing to our knowledge of the matter.

Die Mesh has characterized as "absurd" our discussion of the solicitation requirement that offerors be "currently engaged in the business of manufacturing" and "inane" our conclusion that a protest of EVA/Chloride's qualifications was moot since there was no possibility of that firm receiving an award.

In concluding that South Coast Technology qualified as being "currently engaged in the business of manufacturing" we quoted and relied upon the entire discussion of that term which occurred during the preproposal conference. Die Mesh has not identified any errors in our recitation of this discussion.

Our bid protest procedures are available to interested parties who wish to protest "the award or the proposed award" of certain Federal Government contracts. 4 C.F.R. § 20.1(a) (1977). A protest of the qualifications of a firm, such as EVA/Chloride, which has no possibility of receiving an award because it withdrew its proposal from consideration, becomes an academic exercise in which our Office will not engage.

In its request for reconsideration, Die Mesh requested a "hearing". We believe that a conference should be held in conjunction with a request for reconsideration only if a conference is necessary for the prompt resolution of the matter. International Business Machines Corporation--Reconsideration, 56 Comp. Gen. 875 (1977), 77-2 CPD 97. In our opinion, the need for a conference has not been shown.

Die Mesh raises a number of speculations as to the lack of objectivity in reaching the conclusions set forth in our decision. Indeed, the company suggests that we engaged in deliberate distortion to support a predisposition toward upholding the actions of DOE. All of the issues raised in the various protests were thoroughly considered and fully reported in the decision together with our reasons for the conclusions reached. Die Mesh has not advanced additional facts or offered any arguments of law to demonstrate that our initial decision was in error and it is, therefore, affirmed.


Deputy Comptroller General
of the United States