

**DECISION**

NOVITZ  
29354  
THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE: B-215706.2

DATE: September 18, 1984

MATTER OF: Asgard Technology, Inc.

**DIGEST:**

Prior decision is affirmed where reconsideration request merely reflects protester's disagreement with prior decision and does not raise any new facts or legal arguments which show that prior decision was erroneous.

Asgard Technology, Inc. (Asgard), requests reconsideration of our decision in Asgard Technology, Inc., B-215706, Aug. 13, 1984, 84-1 C.P.D. ¶ \_\_\_\_.

Asgard protested that based upon the oral advice of a procuring official that negotiations would be reopened after the receipt of best and final offers, the firm failed to submit its lowest price in its best and final offer. We denied Asgard's protest stating that negotiations should not be reopened after best and final offers are received unless it is clearly in the government's best interest to do so. Sperry Univac, B-202813, Mar. 22, 1982, 82-1 C.P.D. ¶ 264. We further stated that, assuming Asgard erroneously was advised that negotiations would be reopened, oral representations given before award are not binding and should not be relied upon and pointed out that the solicitation warned offerors that oral instructions given before award are not binding. Stimulators Limited, Inc., B-208418, Nov. 23, 1982, 82-2 C.P.D. ¶ 473.

We also denied Asgard's contention that the procuring activity improperly accepted a price reduction from Papergraphics, the otherwise low offeror. The procuring activity accepted the price reduction based upon Defense Acquisition Regulation § 7-2002.4(e), reprinted in 32 C.F.R. pts. 1-39 (1983), which allows the government to accept a late modification to an otherwise successful offer which makes the terms more favorable to the government, Harris Corporation, B-204827, Mar. 23, 1982, 82-1 C.P.D. ¶ 274; Blue Cross of Maryland, Inc., B-194810, Aug. 7, 1979, 72-9 C.P.D. ¶ 93. We explained that the procuring activity properly applied the regulation because Papergraphics submitted the low acceptable best and final offer and, therefore, neither the relative standing of offerors nor the outcome of the

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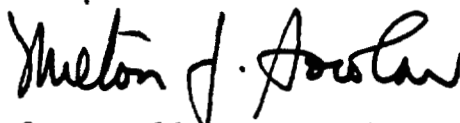
procurement was affected by the agency's acceptance of Papergraphic's late price modification. Blue Cross of Maryland, Inc., B-194810, supra.

Finally, in response to Asgard's contention that the contract improperly was awarded by a procuring official other than the contracting officer, as we explained in our prior decision, DLA informed our Office that Ms. Hawthorne, the procuring official to whom Asgard refers is, in fact, the contracting officer. In this connection, we note that Ms. Hawthorne's name appears on the contract to the successful offeror as the authorized contracting officer.

In its request for reconsideration Asgard reiterates its above-stated contentions and complains that we did not fully investigate its complaints. Essentially, Asgard disagrees with our prior decision. Its arguments were expressly rejected in that decision, however, and while Asgard disagrees with our disposition of the issues involved, it has not provided any new evidence which shows that our prior decision was erroneous. Mere disagreement with our prior decision does not provide a basis to reverse that decision. Atlas Corporation, Inc.,--Request for Reconsideration, B-209446.3, June 30, 1983, 83-2 C.P.D. ¶ 46. Furthermore, it is not our practice under our bid protest function to investigate a protester's unsupported allegations. Austin Company, Advanced Technology Systems, B-212792, Mar. 1, 1984, 84-1 C.P.D. ¶ 257.

On reconsideration, Asgard also complains that it is not reasonable to assume that it had access to the document incorporated by reference into the solicitation which warns offerors that oral representations are not binding upon the agency. In this regard, we point out that the solicitation, at page 24, specifically advises offerors that standard form 33-A (which includes the provision that states that oral explanations or instructions will not be binding upon the agency) is incorporated by reference. The solicitation also states that the document is available upon request and provides offerors with an address and telephone number to make such requests. Under these circumstances, Asgard was on notice of the pertinent provision and, therefore, we find this contention without merit. Inventive Packaging Corporation, B-213439, Nov. 8, 1983, 83-2 C.P.D. ¶ 544.

Since Asgard has not shown any error of fact or law in our prior decision, it is affirmed. S.A.F.E. Export Corporation--Request for Reconsideration, B-208744.2, July 14, 1983, 83-2 C.P.D. ¶ 90.

*for*   
Comptroller General  
of the United States