



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Teledyne CME--Request for Reconsideration
File: B-223609.2
Date: October 17, 1986

DIGEST

Prior decision is affirmed where request for reconsideration rephrases argument which was addressed in the decision and does not show any error of fact or law which warrants reversal.

DECISION

Teledyne CME requests reconsideration of our decision Teledyne CME, B-223609, Sept. 23, 1986, 86-2 C.P.D. ¶ ____, in which we held, in part, that Teledyne's allegation that the Air Force had improperly certified the awardee, Watkins-Johnson, as an approved source for Solid State Acoustical Memory Systems (SSAMS) under the solicitation in question was untimely filed. We so held because the protest related to an alleged apparent solicitation impropriety, but was not filed until after the closing date for receipt of initial proposals. We affirm our prior decision.


In its request for reconsideration, Teledyne concedes the untimeliness of the specific allegation, contained in its initial protest, that Watkins-Johnson was improperly designated as an approved source for the SSAMS. However, Teledyne asserts that our decision incorrectly equates this allegation with an argument which was filed in its supplemental protest, based on information allegedly first revealed in the agency report. This alleged new protest basis concerns the exact method by which the Air Force determined that Watkins-Johnson was an approved source--namely by evaluation of the performance of a different, interchangeable SSAMS unit which Watkins-Johnson was producing for ITT as a subcontractor, to ITT specifications, rather than by evaluation under the Air Force specification referenced in the solicitation. Teledyne asserts that our decision does not address this argument that the Air Force applied changed evaluation criteria by erroneously approving Watkins-Johnson's SSAMS on the basis of evaluation by similarity rather than by direct evaluation.

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This is no more than a rephrasing of the untimely filed argument that Watkins-Johnson was improperly designated as an approved source. Regardless of the mechanics of the procedural basis by which Watkins-Johnson's SSAMS was an approved product, Teledyne's initial protest shows that it knew that the solicitation listed as approved the Watkins-Johnson SSAMS which Teledyne believed did not qualify under the listed Air Force specification. This is Teledyne's protest and, as we held in our prior decision, it constitutes a protest of an alleged solicitation impropriety.

Moreover, our decision addressed the precise issue which Teledyne raises in this request for reconsideration. We pointed out that the Air Force stated that the two specifications in question are not identical, but that Watkins-Johnson's product performance under the ITT specification was used as a basis for ascertaining compliance with the Air Force specification. The Air Force determined that Watkins-Johnson's SSAMS met the Air Force specification by using information generated under the ITT specification. The Air Force did not simply substitute the ITT specification, as Teledyne is alleging. Thus, our decision disposed of the issue which Teledyne now argues was not addressed.

We affirm our prior decision.

for 
Harry R. Van Cleve
General Counsel