



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: APAC-Tennessee, Inc.--Reconsideration

File: B-229710.2, B-229719.2, B-229720.2

Date: March 3, 1988

DIGEST

Requests for reconsideration are denied where protester fails to demonstrate factual or legal error or provide any information not previously considered, but only reiterates arguments considered in the initial protests.

DECISION

APAC-Tennessee, Inc., requests reconsideration of our decision in APAC-Tennessee, Inc., B-229710, B-229719, B-229720, Feb. 8, 1988, 88-1 CPD ¶ _____. In that decision we denied APAC's protests of the issuance, by the Army Corps of Engineers, of invitation for bids Nos. DACW38-88-B-0002, DACW29-88-B-0007, and DACW38-88-B-0001 as total small business set-asides. The solicitations called for articulated concrete mattresses to be cast along the banks of the Mississippi River at Vidalia, Louisiana, St. Francisville, Louisiana, and Greenville, Mississippi, respectively.

We deny the requests for reconsideration.

In the previous protests APAC alleged that over the past 2 to 4 years, an award pattern had developed among three bidding firms with respect to the three annual contracts which were the subject of the protests. APAC maintained that because each of the firms had been awarded the contract for work at a particular location for 2 or more years, the contracting officer had no reasonable expectation of receiving more than one "low bid" from the three firms and, therefore, restriction of the solicitations to small businesses was improper under the Federal Acquisition Regulation (FAR) § 19.502-2 (FAC 84-31).

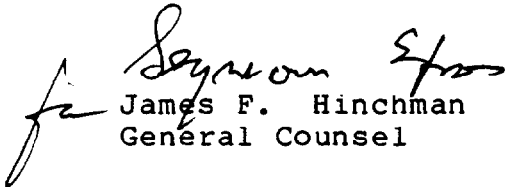
Noting that only one large business--APAC--participated in the competition when one of the three solicitations was issued on an unrestricted basis, we found that APAC's protest was without merit in view of the fact that: (1) in immediately preceding acquisitions of concrete mattresses,

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the agency requirements have been satisfied on a total set-aside basis; (2) the contracting officers properly determined there was sufficient interest among small business firms to meet the agency's present needs; and (3) the government received reasonable prices. See FAR § 19.501(g) (FAC 84-31).

In its requests for reconsideration, APAC states that our February 8 decision improperly fails to consider that the participating small businesses have a vital interest in the continued issuance of these solicitations on a restricted basis and, therefore, their expression of interest in bidding on the solicitations should not be considered. APAC further states that the government's estimates are "an artificial and meaningless benchmark" and should be disregarded in the determinations of price reasonableness. APAC also expresses the view that it is unnecessary for the Army to continue to restrict these solicitations to small businesses because they are not disadvantaged with respect to "the market involved."

These contentions are mere reassertions of the allegations and arguments actually made or inherent in APAC's initial protests. Such arguments fail to establish any legal or factual error in our decision or to provide information not previously considered, as required by our Bid Protest Regulations, 4 C.F.R. § 21.12(a) (1987). Accordingly, the requests for reconsideration are denied. See Kos Kam, Inc.--Reconsideration, B-226495.2, June 29, 1987, 87-1 CPD ¶ 640.


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General Counsel