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DECISION



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

Peter Annunelli
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FILE: B-190945, B-190970 DATE: October 16, 1978
 B-190992
MATTER OF: Technical Services Corporation -
 Request for reconsideration

DIGEST:

1. Prior decision is affirmed upon reconsideration since it has not been shown that prior decision was based on errors of fact or law.
2. Protester has burden of affirmatively proving its case. Where protester's and agency's conflicting statements constitute only available evidence, protester has not met burden.
3. Protester was awarded contract with Army. Quantity of task orders issued under that contract is matter of contract administration and not for review by GAO.

By letter of September 6, 1978, counsel for Technical Services Corporation has requested reconsideration of our decision in the matter of Technical Services Corporation; Artech Corporation; and Sachs/Freeman Associates, Inc., B-190945, B-190970, B-190992, August 25, 1978, 78-2 CPD 145. In that decision, we held in part that Technical Services' protest against allegedly illegal sole-source contract extensions beyond the end of the contract option period by the Department of the Army was untimely filed and refused to consider the merits of that part of Technical Services' protest. The background leading to Technical Services' protest, as well as our legal analysis of the protest, was covered in great detail in the August 25, 1978, decision and, therefore, will not be repeated here.

Section 20.9 of our Bid Protest Procedures, which provides for reconsideration of a decision, requires that requests for reconsideration "contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made or information not previously considered." 4 C.F.R. § 20.9(a) (1978). Technical

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Services' request for reconsideration basically reiterates the background and legal arguments presented in the original protest and disagrees with the equity of our decision. Since the protester has made no showing that our prior conclusion is erroneous, we see no reason to consider these arguments further. However, Technical Services has raised several other matters which we desire to address.

Technical Services states that our review "constituted nothing more than an adoption of the agency's erroneous assertions without serious consideration of the significant issues which were raised." We point out that Technical Services' protest, as well as the related Artech and Sachs/Freeman protests, was decided after very careful scrutiny of three separate agency reports and a supplemental agency report on the protests, voluminous communications from all three protesters, written input from many interested parties, and the decisions of the Size Appeals Board of the Small Business Administration regarding the protested solicitations. Moreover, a conference was held on April 17, 1978, on the subject protests, and all protesters, other interested parties, representatives of the Small Business Administration and the Army were invited to attend and submit written comments after the conference. Only after a careful review of all of this written material and supporting documentation did we reach a final decision on the matter. We also wish to point out that the protester has the burden of affirmatively proving its case. Where the conflicting statements of the protester and the contracting agency constitute the only available evidence, we do not believe that the protester has met the burden of affirmatively proving its case. The Public Research Institute of the Center for Naval Analyses of the University of Rochester, B-187639, August 15, 1977, 77-2 CPD 116.


Technical Services also complains that, although it was awarded one of the three contracts which resulted from the protested solicitations, the awardees under the other two solicitations have been issued task orders for a much greater dollar value of work under their contracts. Our bid protest function is to see that solicitations for

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and award of Government contracts are conducted in accordance with applicable procurement laws and regulations. The quantity of task orders issued under that contract is clearly a matter of contract administration within the discretion of the contracting activity and is not a matter for review by our Office.

Therefore, the prior decision is affirmed.


Deputy Comptroller General
of the United States