Office of Dispute Resolution for Acquisition
Federal Aviation Administration
Washington, D.C.

Protests of	)	
	)	Docket No. 08-ODRA-00459
Hi-Tec Systems, Inc.	)	Docket No. 08-ODRA-00460
	)	(CONSOLIDATED)
Pursuant to Solicitations DTFAWA-08-R-55501)		
and DTFAWA-08-R-55502)		

DECISION ON RECONSIDERATION REQUEST

This matter currently is before the Federal Aviation Administration ("FAA") Office of Dispute Resolution for Acquisition ("ODRA") on a motion ("Motion") of the Protester, Hi-Tec Systems, Inc. ("Hi-Tec"). The Motion seeks reconsideration of the November 10, 2008 Decision of the ODRA ("Decision") denying the In-house counsel for Hi-Tec's Application for admission to the Protective Order in these cases. For the reasons discussed herein, the ODRA summarily denies the Motion as wholly without merit.

I. FACTUAL BACKGROUND

In the Decision, the ODRA relied on undisputed facts from the Applicant's own submissions to support the ODRA's conclusion that "under the circumstances, and given that the Applicant is the sole in-house counsel for Hi-Tec and reports directly to the President of the Company, in the ODRA's view he is not sufficiently insulated from the decisionmaking process. His admission to the Protective Order thus would present an unacceptable risk of inadvertent disclosure of proprietary or competition sensitive information." *Decision* at 5.

II. THE STANDARD FOR RECONSIDERATION

The ODRA's standards regarding requests for reconsideration have been discussed in a number of cases. *See Protest of Maximus, Inc.,* 04-TSA-009, *Decision Denying Maximus Inc.'s Motion for Reconsideration* dated November 29, 2004; *Protest of Raytheon Technical Services Company,* ODRA Docket No. 02-ODRA-00210, *Findings and Recommendations on Motion for Reconsideration* dated April 10, 2002*; Protest of Consecutive Weather*, 99-ODRA-00112, *Recommendation Regarding Reconsideration Request* dated July 13, 1999; *Consolidated Protests of Camber Corporation and Information Systems and Networks Corporation,* 98-ODRA-00079 and 98-ODRA-00080, *Motion for Reconsideration* dated July 23, 1999. In order to prevail on a request for reconsideration, the requesting party must demonstrate: (1) clear errors of material fact or law in the underlying decision; or (2) previously unavailable information that would warrant reversal or modification. *See Protest of Maximus, Inc., supra*.

It similarly is well established that, consistent with maintaining an efficient dispute resolution process, the ODRA "will not entertain [reconsideration] requests as a routine matter," and will not "consider requests demonstrating mere disagreement with a decision or restatement of a previous argument." *Id.* An attempt to either re-litigate previously adjudicated issues or to introduce new legal arguments based on the original administrative record will not provide a basis for reconsideration. *See Protest of Raytheon Technical Services Company*, 02-ODRA-00210, *Findings and Recommendations on Request for Reconsideration of the Merits and for Clarification* dated April 22, 2002.

III. DISCUSSION

In reaching its decision the ODRA relied on its finding that "it is undisputed that the Applicant is the sole in-house counsel for Hi-Tec. *See Second Supplement* at 2. Further it is undisputed that he answers to only the President of Hi-Tec. *Id." Decision* at 4*, citing to Second Supplement to the Application to the Protective Order.* The Decision noted

further that in that Second Supplement the Applicant admitted that "in the broadest meaning of the word 'report' I report to him [the president of Hi-Tec]." *Decision* at 3, *citing to Second Supplement* at 2.

In the current Motion, Hi-Tec asserts that "there are clear errors of fact and law in the underlying decision of November 10, 2008…." *Motion* at 1. The Motion utterly fails, however, to demonstrate errors in the materials facts underlying to ODRA's decision. Indeed it would be difficult to do so inasmuch as the material findings were based on undisputed admissions and statements by Hi-Tec's counsel himself. Moreover, none of the authorities cited in the Motion either mandate or provide persuasive authority for a conclusion that, given the undisputed facts of this case, the Decision is legally defective. As counsel should be aware, such an approach cannot properly provide the basis for reconsideration. *See Protest of Maximus, Inc, supra.* Neither can mere disagreement with the Decision and the restatement of Hi-Tec's previous arguments properly support its Motion. *See Protest of Raytheon Technical Services Company, supra.*

IV. CONCLUSION

The ODRA finds that Hi-Tec's Motion has failed to demonstrate any clear errors of fact or law in the challenged Decision. Nor has the Motion alleged the existence of any new or changed circumstances that would warrant modification of the Decision. Accordingly, The ODRA declines to reconsider the Decision and denies the Motion as wholly without merit. Counsel for Hi-Tech is admonished regarding any continuation of frivolous filings in these Protests.

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Anthony N. Palladino
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Office of Dispute Resolution
For Acquisition

November 20, 2008