

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 OF DENIAL OF MOTION TO COMPEL

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”) seeking reconsideration of the October 29, 2008 Decision of the ODRA (“Decision”) denying Hi-Tec’s Motion to Compel discovery in these cases. For the reasons discussed herein, the ODRA summarily denies the Motion as meritless.*

I. FACTUAL BACKGROUND

In the Decision, the ODRA concluded that “Hi-Tec’s Discovery Request: seeks a form of discovery, *i.e.*, interrogatories, not contemplated by the ODRA Procedural Regulations for Protests; is overly broad and unduly burdensome; and goes far beyond the scope of permissible bid protest discovery.” *Decision* at 7. In denying Hi-Tec’s Motion to Compel in its entirety, the ODRA found that:

The Agency Response contains, among other things, declarations of the individuals responsible for making the challenged decisions. The Agency Response also contains the documents on which these individuals relied in making the challenged decisions, as well as pertinent solicitation documents issued by the Program Office prior to the filing date of the Protests. Furthermore, the documents already provided to Hi-Tec and to the ODRA are consistent with the requirements of the ODRA Procedural

* This Decision is in the nature of an interlocutory order. It will become final upon issuance of the final Agency Order at the conclusion of these Protests.

Regulations, and provide a meaningful opportunity for review by the ODRA of the protested decisions.

Id.

II. DISCUSSION

It is well established that a party seeking reconsideration 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 Protests of Hi-Tec Systems, Inc.*, 08-ODRA-00459,-00460 (Consolidated), *Decision Denying Motion for Reconsideration dated November 20, 2008*; *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.

As the ODRA recently reaffirmed in these Protests: “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.’” *Protests of Hi-Tec Systems, Inc.*, *supra*, quoting from *Protest of Maximus, Inc.*, *supra*. “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.” *Id.* at 2 citing to *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.

Hi-Tec's Motion fails to demonstrate that the ODRA's Decision denying the Motion to Compel was based on clear errors of material fact or law. Rather, the Motion merely disagrees with the Decision and attempts to re-litigate in favor of a broader scope and form of discovery than is permitted by the ODRA Procedural Regulations for Bid Protests. *See* 14 C.F.R. Part 17. As we have held previously in this case and others, mere disagreement with a decision and restatement of previous arguments cannot properly support a reconsideration motion. *See Protests of Hi-Tec Systems, Inc., supra; Protest of Raytheon Technical Services Company, supra.*

III. CONCLUSION

Hi-Tec has not demonstrated clear errors of fact or law in the challenged Decision and has not alleged that there are any new or changed circumstances that would warrant modification of the Decision.¹ The ODRA, therefore, will not reconsider the Decision and denies the Motion for lack of merit.

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For Acquisition

December 1, 2008

¹ The ODRA notes in this regard that, if anything, changed circumstances further bolster the challenged Decision. In a separate Decision issued in these Protests on December 1, 2008, the ODRA dismissed, for lack of subject matter jurisdiction, Hi-Tec's protest ground alleging that the FAA Acquisition Management System is not in compliance with the statutory mandate of Congress. Hi-Tec had argued that "extensive discovery will be required to determine the extent of the noncompliance." *See* Hi-Tec Letter dated September 19, 2008.