

**UNITED STATES DEPARTMENT OF TRANSPORTATION**

**FEDERAL AVIATION ADMINISTRATION**

**WASHINGTON, DC**

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**ORDER**

**FAA Order**

**Number: ODR-98-80**

**Matter: Protest of Fisher-Cal Industries, Inc.  
Pursuant to Solicitation DTFA03-96-R-0001 and  
Contract Dispute of Art-Z Graphics, Inc.**

**Dockets: 98-ODRA-00081 and 00083 (Consolidated)**

**Date Served: August 27, 1998**

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**ORDER**

This matter arose as the result of a settlement agreement ("Settlement Agreement") entered into by Art-Z Graphics, Inc. ("Art-Z") and the FAA Technical Center ("Center") on March 11, 1998. The agreement settled and resulted in the dismissal of Art-Z's protest of an award to Fisher-Cal Industries, Inc. ("Fisher-Cal"), pursuant to FAA Order Number ODR-98-56. The Settlement Agreement, which was executed by Art-Z and a warranted Contracting Officer ("CO"), reflected recognition by the Center that its decision to award the contract to Fisher-Cal "may have been improper."

Subsequently, on June 23, 1998, the ODR-98-80 received a protest by Fisher-Cal essentially alleging (1) that any award "without a new bid procedure" to Art-Z pursuant to the March 11, 1998 Settlement Agreement was improper; (2) that the Center failed to follow the evaluation procedures set forth in the solicitation when it evaluated past experience of Art-Z; and (3) that the Center overlooked the Organizational Conflicts of Interest clause in evaluating Art-Z's proposal. On July 23, 1998, Art-Z intervened in the protest of Fisher-Cal and requested reinstatement of its original settled protest. On August 3, 1998, Art-Z filed a Motion for Summary Disposition of the Fisher-Cal protest and for a

declaration that the FAA/Art-Z Settlement Agreement of March 11 is binding and enforceable.

For the reasons set forth therein, I adopt the attached Findings and Recommendation of the Office of Dispute Resolution for Acquisition ("ODRA"); and hereby grant Art-Z's request for summary disposition and deny the protest of Fisher-Cal. I further direct the Center (1) not to renew the second year option of the Fisher-Cal contract and (2) to make an award to Art-Z in accordance with the Settlement Agreement.

This is the final Agency order in this matter. To the extent that this decision is subject to review, such review shall be sought in accordance with 49 U.S.C. § 46110. A petition for review must be filed with the United States Court of Appeals for the District of Columbia

Circuit, or in the court of appeals of the United States for the circuit in which the petitioner resides or has its principal place of business. The petition must be filed not later than 60 days after the date that this order is issued. A copy of any such petition must also be filed with the FAA Office of Dispute Resolution for Acquisition on the date it is filed with the appropriate circuit court of appeals.

\_\_\_\_\_/s/\_\_\_\_\_  
JANE F. GARVEY  
ADMINISTRATOR

Issued this 27th day of August, 1998