

DOCUMENT RESUME

03326 - [A2413548]

[Request for Reconsideration of Protest to Contract Award].
B-189450. August 25, 1977. 2 pp.

Decision re: H. C. & D. Capital Corp.; by Milton Socolar (for
Elmer B. Staats, Comptroller General).

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel; Procurement Law II.

Budget Function: National Defense; Department of Defense -
Procurement & Contracts (058).

Organization Concerned: Marine Corps; Logistics Support Base,
CA; Robert F. Smith Co.

Authority: Contract Work Hours and Safety Standards Act (40
U.S.C. 327 et seq.). 4 C.F.R. 20.9 (a), B-184062 (1976).

Reconsideration was requested of a decision dismissing
a protest to a contract award which was based on determination
of business size and alleged affiliation with debarred firms.
Since no error of fact or law in the decision was demonstrated,
the request was denied. Request for a conference was also denied
because the protester did not meet criteria for obtaining
reconsideration. (HTW)

Feldman
P.L. II

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DECISION



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

FILE: B-189450

DATE: August 25, 1977

**MATTER OF: M.C. & D. Capital Corporation--
Reconsideration**

DIGEST:

1. Request for reconsideration of GAO decision which merely restates protester's original argument without demonstrating errors of fact or law is denied.
2. Request for conference is denied because protester has not met criteria for obtaining reconsideration as required by GAO Bid Protest Procedures which do not explicitly provide for conference upon reconsideration.

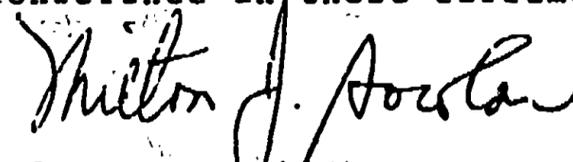
M.C. & D. Capital Corporation (Capital) requests reconsideration of our decision of July 14, 1977, which dismissed that firm's protest of an award of a roofing contract to Robert F. Smith Co. (Smith) by the Marine Corps Logistics Support Base, California.

Capital's bases for protest were that (1) Smith was not a small business concern (by reason of its affiliation with a large business) and (2) Smith was affiliated with firms which have been debarred for violations of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C. § 327 et seq. (1970). We found that because the Small Business Administration (SBA) is empowered to determine conclusively the size status of a business concern, its determinations are not subject to review by our Office. In this connection we noted that the protester had filed an appeal with the SBA Size Appeals Board objecting to the initial adverse determination by the SEA Regional Office. With respect to Capital's second ground for protest, we held that the alleged affiliation of Smith with debarred firms is also not for consideration by our Office. We held that our role under the Act is purely ministerial and does not include determinations of affiliations with debarred firms.

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In its request for reconsideration, Capital states that it has appealed the determination by the SBA San Francisco, California, Regional Office that Smith is a small business. In addition, Capital has submitted a notarized letter which indicates that Smith may be affiliated with a debarred firm. The protester, however, has presented no argument relevant to the question of whether GAO may decide the issues raised. Since Capital merely has restated its original arguments without demonstrating errors of fact or law, as required by our Bid Protest Procedures, 4 C.F.R. 20.9(a) (1977), its request for reconsideration is denied. J. H. Rutter Rex Manufacturing Co., Inc. - Request for Reconsideration, B-184062, July 6, 1976, 76-2 CPD 9.

We note that in its request for reconsideration, Capital requested a conference to prove that Smith is affiliated with a debarred firm. However, our Bid Protest Procedures do not explicitly provide for conferences upon reconsideration. See 4 C.F.R. 20.9. Inasmuch as Capital has not met the criteria for obtaining reconsideration, as required by our procedures, we see no purpose in holding a conference in these circumstances.

for 
Paul G. Debling
General Counsel