

**DECISION**



*J. No. Topoucha*  
*ALF*  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

**7886**

**FILE: B-190396**

**DATE: October 3, 1978**

**MATTER OF: Health Care Out-Patient Programs, Inc.-  
Reconsideration**

**DIGEST:**

Request for reconsideration of prior decision, filed more than 4 months after decision was issued, is untimely under 4 C.F.R. 20.9(b) and is ineligible for consideration.

By letter dated September 14, 1978, received by our Office on September 21, 1978, Health Care Out-Patient Programs, Inc., a small business concern, has requested reconsideration of our decision of May 2, 1978, B-190396, in which we declined to review a Veterans Administration contracting officer's determination of nonresponsibility due to lack of business integrity where such determination was referred to and concurred in by the Small Business Administration (SBA), and where the SBA accordingly declined to certify the protester as an eligible contractor for the procurement at issue.

In declining review of the matter, we pointed out that under 15 U.S.C. 637(b)(7) (1976), as amended by Public Law 95-89, § 501, 91 Stat. 561, August 4, 1977, the SBA has authority to certify to Government procurement officers "with respect to all elements of responsibility, including, but not limited to, capability, competency, capacity, credit, integrity, perseverance, and tenacity of any small business concern \* \* \* to receive and perform a Government contract," (emphasis added) and that SBA's disposition of the matter is final.

The protester's request for reconsideration is based in large part on the existing version of the Federal Procurement Regulations (FPR) as set out in 41 Code of Federal Regulations (CFR) (1977). Specific

reference is made to section 1-1.708-2(a)(4), which states that the procedure for referral of a contracting officer's determination of nonresponsibility to the SBA for possible issuance of a certificate of competency does not apply where the contracting officer has found a small business concern to be non-responsible for reasons other than capacity or credit.

The request for reconsideration is untimely and ineligible for consideration. Section 20.9(b) of our Bid Protes.. Procedures (4 C.F.R. part 20 (1978)) requires that requests for reconsideration be filed with our Office not later than 10 working days after the basis of the request is known or should have been known. See Department of Health, Education, and Welfare - Reconsideration, B-191453, August 30, 1978, 78-2 CPD 155. As indicated, the reconsideration request was filed more than 4 months after issuance of our initial decision.

We point out, however, that the cited CFR section is based on the law as it existed prior to the statutory amendment of August 4, 1977, and must be considered to have been superseded by the new law which brought all matters of bidder responsibility, including integrity, within the SBA certification procedure. See, e.g., Telectro Systems Corp., B-190640, December 14, 1977, 77-2 CPD 462.

Deputy  Comptroller General  
of the United States