



The Comptroller General
of the United States

Washington, D.C. 20548

135287

Decision

Matter of: Rokach Engineering P.C.--Request for
Reconsideration
File: B-229680.2
Date: March 10, 1988

DIGEST

Request for reconsideration is denied where the protester essentially restates arguments previously considered in original decision because a request for reconsideration must detail the factual and legal grounds warranting reversal of decision, specifying errors of law made or information not previously considered.

DECISION

Rokach Engineering P.C. requests reconsideration of our decision in Rokach Engineering P.C., B-229680, Feb. 3, 1988, 88-1 CPD ¶ , in which we denied its protest against the failure of the Department of Education to award it Phase I research funds for a project that the firm proposed in response to Topic 8, "Innovative Approaches to Instruction of Adult Learners," of request for proposals (RFP) No. 87-014.

We deny the request for reconsideration.

The solicitation was issued under the Small Business Innovation Research (SBIR) Program. This program was established under the Small Business Innovation Development Act (Innovation Act), 15 U.S.C. § 638 (1982), which requires federal agencies to reserve a portion of their research and development efforts and authorizes them to award "funding agreements" to small businesses based upon evaluation of proposals submitted in response to solicitations issued pursuant to the Innovation Act.^{1/} The solicitation provided for each Phase I proposal to be evaluated on a competitive basis in accordance with the expressly stated evaluation criteria.

1/ These funding agreements can take the form of contracts (as here), grants or cooperative agreements. 15 U.S.C. § 638(e)(3).

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The agency issued the RFP on January 16, 1987, seeking proposals on 9 topics, among them Topic 8, with a closing date of March 18. The agency reviewed 208 proposals, screening them, identifying the topic that each related to and assigning the proposals to reviewers for evaluation of the proposals. While the process of identifying proposals meriting funding was going on, the Assistant Secretary for the Office of Educational Research and Improvement (OERI) notified the agency SBIR coordinator by memorandum dated July 1, 1987, that owing to budget reductions, that office would be unable to fund any proposals under Topic 8. Since that office was the only office sponsoring (i.e., funding) proposals under Topic 8, the July 1 memorandum effectively served to eliminate any possibility of the agency's funding proposals under Topic 8.^{2/}

In its initial protest, Rokach asserted that the July 1 memorandum was evidence that the agency never intended to award a contract under Topic 8 and, therefore, had issued the solicitation in bad faith. However, the protester offered no evidence to support its allegation of bad faith apart from pointing out that the actual awards made varied greatly in number from the agency's original expectations. Further, it was implicit in our earlier decision that the memorandum of July 1, showing the intention not to fund Topic 8 proposals, was not convincing evidence that on January 16, when the RFP was issued, the agency intended not to fund Topic 8 proposals. We therefore found no evidence of bad faith or fraud.

Concerning Rokach's request for reconsideration, we initially note that our Office will not consider a request for reconsideration that does not contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted specifying any errors of law made or information not previously considered. 4 C.F.R. § 21.2(a) (1987).

In its request for reconsideration, the protester again adduces the July 1 memorandum as evidence of bad faith. The protester argues that while the July 1 memorandum states that it may be possible to support a couple of highly qualified Topic 9 proposals, the agency elsewhere states that it was not until late September, not July, that it became apparent that funds would not be available to fund either Topic 8 or Topic 9. The protester believes that a

^{2/} OERI left open the possibility of funding "a couple" of "highly qualified" proposals under Topic 9 until September when this possibility was also abandoned.

statement made that when the RFP was released on January 16 OERI would fund "one or more" proposals and the statement that it might support "a couple" of proposals under Topic 9 made in the July 1 memorandum, proves that the "one or more" awards contemplated on January 16 were only Topic 9 proposals.

We find that the protester is essentially restating the argument that we fully considered in our original decision. Even assuming that the agency never intended to make more than a few awards, the July decision to fund only Topic 9 proposals is simply not evidence that such was the agency's intention in January, particularly when weighed against the convincing contrary evidence presented by the agency. Rokach has presented no other evidence to support its allegation of bad faith on the part of the agency.

Since Rokach has only restated an earlier argument, we find that the request for reconsideration fails to specify information not previously considered or to present anything indicating that our decision contains errors of law. See Buchanan Construction Co.--Request for Reconsideration, B-224171.3, Mar. 19, 1987, 87-1 CPD ¶ 309.

The request for reconsideration is denied.


James F. Hinchman
General Counsel