



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Sippial Electric & Construction Company,
Inc.--Reconsideration
File: B-229839.2
Date: April 26, 1988

DIGEST

A contractor adversely affected by a prior General Accounting Office decision is not eligible to request reconsideration of that decision where the firm was notified of the original protest but chose not to exercise its right to comment on the issues raised in the protest.

DECISION

Sippial Electric & Construction Company, Inc. objects to our decision in Avanti Construction Corp., B-229839, Mar. 14, 1988, 88-1 CPD ¶ _____. In that decision, we sustained the protest by Avanti Construction Corporation against the Veterans Administration's (VA) denial of its preaward request to correct a mistake in its low bid submitted in response to invitation for bids (IFB) No. 86-1120, for the performance of interior wall maintenance at the VA Medical Center, Tuskegee, Alabama. We recommended that the VA correct Avanti's bid to increase the price by the omitted costs of \$144,420, resulting from two clear transcription errors in the transfer of information from Avanti's worksheets to its bid. Additionally, we recommended that the VA make award to Avanti at its corrected bid price of \$468,020, if otherwise proper. Had Avanti's correction request been properly disallowed, Sippial's bid of \$488,620 would have been next in line for award. Sippial claims that correction of Avanti's bid to within 4 percent of Sippial's bid is not permissible.

Sippial styles its letter to our Office as a protest against the agency's decision to correct Avanti's bid. However, it is evident that Sippial is challenging our decision to allow correction, rather than the agency's independent action, since the agency is merely following our recommendation to consider Avanti's bid. Accordingly, we conclude that Sippial's letter should be treated as a request for reconsideration and as such should be dismissed.

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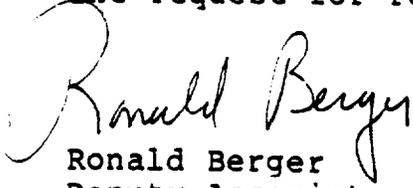
We dismiss Sippial's request because the firm is not eligible to seek reconsideration. Our Bid Protest Regulations, 4 C.F.R. § 21.12(a) (1988), permit the protester and "any interested party who participated in the protest" to request reconsideration. In promulgating section 21.12 of our regulations, we intended to limit those who could request reconsideration of a protest decision to parties who had sufficient interest in the matter, and who had engaged in the effort necessary to reasonably participate in the protest process before a decision was reached, thus minimizing the possible disruption to the procurement process that could arise from a decision on reconsideration. See Small Business Administration--Aunyx Mfg. Corp.--Reconsideration, B-208002.3, Dec. 7, 1982, 82-2 CPD ¶ 510. The rationale behind this provision is also in line with our belief that to the maximum extent possible our decisions should be final, thereby insuring the prompt and meaningful resolution of bid protests. See Tandem Computers, Inc.--Request for Reconsideration, B-221333.2, et al., Sept. 18, 1986, 86-2 CPD ¶ 315.

Accordingly, we have held that where a party is on notice of a protest, but does not participate in the protest by filing comments, that party may not request reconsideration. See DLI Engineering Corp.--Reconsideration, 65 Comp. Gen. 34 (1985), 85-2 CPD ¶ 468. In this case, Sippial does not assert that it did not receive the required notice of Avanti's protest. In fact, the record indicates that Sippial was sent a copy of the agency's report responding to Avanti's protest which thoroughly discussed the facts and issues in that case, and also was sent a subsequent filing on the protest. Both filings were sent to Sippial well before we rendered our decision. Sippial, however, chose not to exercise its right to comment on the issues raised in the protest. We do not believe that Sippial should now be afforded an opportunity to raise issues which it could have raised during the pendency of the original protest since our decisions clearly preclude a piecemeal presentation of evidence, information or analyses. J.W. Cook, Inc.--Request for Reconsideration, B-228038.2, Mar. 30, 1988, 88-1 CPD ¶ _____.

In any event, we point out that we did consider the issue Sippial now raises regarding the relative closeness of Avanti's corrected bid price and Sippial's bid price. Sippial's position is that a correction to within 4 percent of the next low bid is per se objectionable. As indicated in our prior decision, the closer the intended bid is to the next low bid, the more difficult it is to obtain correction. Vrooman Constructors, Inc., B-226965.2, June 17, 1987, 87-1 CPD ¶ 606. However, correction even to within 1 percent is

allowable provided there is no uncertainty in the amount of the intended bid. Aleutian Constructors, B-215111, July 12, 1984, 84-2 CPD ¶ 44. Here, it was clear from the record that Avanti would remain low after correction and would not under any circumstances displace the next low bidder. Moreover, Avanti presented clear and convincing evidence of its intended bid to within a narrow range and Sippial has not challenged this evidence. Correction under these circumstances did not compromise the integrity of the competitive bidding process. See Western Alaska Contractors, B-220067, Jan. 22, 1986, 86-1 CPD ¶ 66.

The request for reconsideration is therefore dismissed.



Ronald Berger
Deputy Associate
General Counsel