



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Accurate Mechanical Inc.--Reconsideration

File: B-227847.3

Date: August 12, 1988

DIGEST

1. A request for reconsideration is untimely if it is not filed within 10 days of the time the basis for the request is known or should have been known, whichever is earlier. Where the issue upon which the request is based is discussed in an agency report and in our decision, a request for reconsideration filed more than a month after the decision is issued is untimely.
2. A request for reconsideration ostensibly based upon a newspaper article, which even if accurate, could only affect procurements in the future, does not contain the detailed statement of the factual and legal grounds upon which reversal or modification of the decision is deemed warranted or information not previously considered by this Office.

DECISION

Accurate Mechanical, Inc. requests reconsideration of our decision, B-227847.2, June 22, 1988, 88-1 CPD ¶ ___, denying its protest over the award of a contract under request for proposals (RFP) No. DAAA09-87-R-0543 for suspension lugs. The lugs are used to suspend bombs from aircraft. The basis of the request is an article in the Wall Street Journal dated July 26, 1988, which indicated that contracting officers would have to seek special approval to proceed with more than one round of best and final offers (BAFO). In its May 3, 1988, comments on the agency report, Accurate asked "Why did the Agency provide Delfasco of Tennessee, . . . three (3) opportunities to correct their non-responsive bid?" The three "opportunities" relate to the three rounds of BAFOs that were requested.

We dismiss the request for reconsideration.

First, we believe it is necessary to note that there were no "nonresponsive bids" concerned with this negotiated

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procurement. As our original decision noted, Delfasco's original offer, as well as that of another firm were considered to be unacceptable but susceptible of being made acceptable^{1/} and negotiations were commenced with all firms that responded pursuant to Federal Acquisition Regulation § 15.610 by advising all firms that offers must be based on the technical data package and all terms and conditions contained in the RFP. BAFOs were requested. Delfasco's proposal was never in contention after the receipt of the initial round of BAFOs. Our decision also discussed the reasons why successive rounds of BAFOs were requested, that award was to be made to the low acceptable offeror, and that Accurate was never the low offeror under the RFP.

To be considered, a request for reconsideration must meet two basic criteria. First, it must be filed not later than 10 days after the basis for reconsideration is known or should have been known, whichever is earlier. Bid Protest Regulations, 4 C.F.R. § 21.12(b) (1988). Second, a request for reconsideration must 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. § 21.12. The request here fails on both grounds.

With respect to the timeliness of the filing, we note that the protester was in possession of the agency report in May. That report set forth the details of the procedures used in the procurement, including the reasons for the successive rounds of BAFOs. The protester never raised that issue directly, and in fact participated in the successive rounds. In addition, our decision issued on June 22, specifically discussed the BAFOs requested, although they were in fact peripheral to the substantive issues raised in the protest. The request was not filed until July 27.

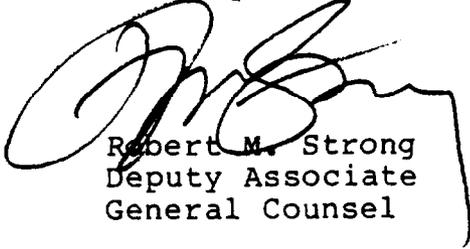
The protester cannot rely on the Wall Street Journal article as its basis for reconsideration, since even if it is accurate, the limitation on successive rounds of BAFOs could not affect the procurement under protest, which occurred much earlier.

Finally, the request for reconsideration does comply with 4 C.F.R. § 21.12(a) as it does not contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted or information not previously considered. It merely contains a photocopy of the newspaper article noted, and requests that GAO

^{1/} The names of the firms were not specified in the decision.

"reinvestigate" the allegation that Delfasco was given three opportunities to correct its "nonresponsive bid."

The request for reconsideration is dismissed.



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General Counsel