



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Unison Transformer Services, Inc.--Request for
Reconsideration
File: B-232434.3
Date: February 1, 1989

DIGEST

1. Request for reconsideration of prior decision is denied where the request contains no statement of error of fact or law warranting reversal or modification but merely restates argument made by protester and considered previously by the General Accounting Office.
2. Request for reconsideration filed more than 10 working days after basis for reconsideration is known is untimely and will not be considered.

DECISION

Unison Transformer Services, Inc., requests reconsideration of our decision, Unison Transformer Services, Inc., B-232434.2, Nov. 30, 1988, 88-2 CPD ¶ 539, in which we denied Unison's protest that the Department of Commerce improperly conducted discussions with Sun Environmental, Inc., after the submission of best and final offers (BAFOs) under request for proposals (RFP) No. 52SBNB8C5085. We deny the request for reconsideration in part and dismiss it in part.

Unison had originally protested that Sun did not comply with a definitive responsibility criterion under the RFP which required that offerors provide evidence of having successfully reclassified at least one high concentration PCB transformer to non-PCB status for a minimum of 1 year without "polishing." In our first decision on this matter,

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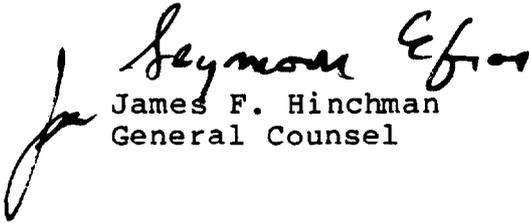
Unison Transformer Services, Inc., B-232434, Nov. 10, 1988, 68 Comp. Gen. _____, 88-2 CPD ¶ 471, we held that Sun had submitted sufficient documentation from which Commerce could reasonably determine that Sun complied with the definitive responsibility criterion. Before receiving this decision, Unison filed the above-referenced second protest. In response to this latter protest in which Unison contended that Commerce had conducted improper discussions with Sun, we pointed out that an agency properly may obtain information from a contractor regarding responsibility after the submission of BAFOs. We also pointed out that the alleged discussions consisted of documentation which Sun had submitted in comments which it filed incident to Unison's protest, and that there was nothing in the record to suggest that Commerce had used the information for evaluation purposes. We further noted that we had held in the first decision that Commerce had a sufficient basis to conclude that Sun had satisfied the definitive responsibility criterion from the material submitted by Sun with its proposal. We concluded that Unison's allegation did not provide a valid basis for protest because it merely concerned documents relating to an ancillary argument raised in the first protest, and it had no bearing on the conduct of discussions or the evaluation under the solicitation.

Unison's request for reconsideration relates to this second decision. However, in its request, Unison has again raised arguments regarding the sufficiency of the evidence which Sun submitted to evidence compliance with the definitive responsibility criterion. Since the request for reconsideration was not filed until December 19, 1988, more than 10 working days after Unison received the original decision, this aspect of the reconsideration request is untimely and will not be considered on the merits. 4 C.F.R. § 21.12(b) (1988).

That part of Unison's reconsideration request which does concern the second decision merely reiterates the same allegation that materials submitted by Sun in its comments on Unison's protest were used by Commerce to evaluate Sun's compliance with the definitive responsibility criterion. We addressed this allegation in detail in our prior decision and rejected the argument for the reasons stated above. While Unison's request reflects its disagreement with the decision, it does not meet the requirements under our Bid Protest Regulations, 4 C.F.R. § 21.12(a), that a request for reconsideration contain a detailed statement

of the factual and legal grounds on which reversal or modification is warranted, specifying errors of law made in the decision, or information not previously considered. See MMC/PHT Co.--Reconsideration, B-230599.3, Sept. 9, 1988, 88-2 CPD ¶ 222.

The request for reconsideration is denied in part and dismissed in part.


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General Counsel