



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Southern CAD/CAM--Reconsideration
File: B-242299.3
Date: January 17, 1991

George Keritsis for the protester.
Catherine M. Evans and John M. Melody, Esq., Office of the
General Counsel, GAO, participated in the preparation of the
decision.

DIGEST

Request for reconsideration of decision dismissing protest of
award to firm that allegedly is not an authorized dealer of
offered product is denied where only new information offered
in request relates to awardee's status as a regular dealer
under the Walsh-Healey Act, an issue which the General
Accounting Office does not consider.

DECISION

Southern CAD/CAM requests reconsideration of our December 11,
1990 decision, in which we dismissed its protest of the award
of a contract to IBIS Corp. by the Department of Commerce
under solicitation No. 53-EANE-0-00057.

We deny the request for reconsideration because the request
provides no basis for reconsidering our prior decision.

In its protest, Southern alleged that IBIS is not an
authorized dealer of the software offered and thus will be
unable to perform properly. We dismissed the protest because
our Office generally does not review a protester's challenge
to an agency's affirmative determination of the awardee's
ability to perform the contract. In its request for recon-
sideration, Southern offers additional support for its
original allegations, and also asserts that IBIS is not in
compliance with the requirements for certification as a
regular dealer under the Walsh-Healey Act, 41 U.S.C.
§§ 35-45 (1988).

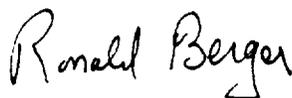
Under our Bid Protest Regulations, to obtain reconsideration,
the requesting party must show that our prior decision may
contain either errors of fact or law or present information

050397 / 142985

not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1990). The repetition of arguments made during our consideration of the original protest and mere disagreement with our decision do not meet this standard. R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

The only new allegation Southern has offered here is that IBIS does not meet certain requirements for Walsh-Healey regular dealer certification. Under our Regulations, our Office does not consider the legal status of a firm as a regular dealer or manufacturer under the Walsh-Healey Act. 4 C.F.R. § 21.3(m)(9). By law, this matter is to be decided by the contracting agency, in the first instance, subject to review by the Small Business Administration, where a small business is involved, and the Secretary of Labor. The Pratt & Whitney Co., Inc.; Onsrud Mach. Corp., B-232190; B-232190.2, Dec. 13, 1988, 88-2 CPD ¶ 588.

As Southern does not allege any error of fact or law, or present new information that would warrant reversal or modification of our decision, we have no basis upon which to reconsider it.



Ronald Berger
Associate General Counsel