

Perry



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Avtec, Inc.--Reconsideration

File: B-241858.2

Date: April 23, 1991

Ronald A. Duncan for the protester.
Anne B. Perry, Esq., and Paul Lieberman, Esq., Office of the
General Counsel, GAO, participated in the preparation of the
decision.

DIGEST

Request for reconsideration which fails to identify any
specific factual or legal errors is denied; general statement
that initial decision failed to consider all relevant
information is insufficient to warrant reconsideration of
prior decision.

DECISION

Avtec, Inc. requests reconsideration of our decision in
Modular Communications Sys., Inc., B-241858, Mar. 8, 1991,
91-1 CPD ¶ 263, in which we sustained Modular Communications
Systems's (Moducom) protest against the award of a contract
for a dispatch console system to Avtec by the Forest Service,
Department of Agriculture, under solicitation No. R5-14-90-96.

We deny the request for reconsideration because the basis for
the request was available but not submitted or argued during
our consideration of the initial protest.

Moducom protested the award of a contract to Avtec on the
grounds that the agency had improperly permitted Avtec to
deviate from the specifications in seven specific areas.^{1/}
In its protest Moducom specifically identified and explained
how Avtec's proposal failed to meet the specifications, and
the protest submissions by the Forest Service and Avtec
failed to specifically rebut any of these allegations, despite
requests by our Office to the agency that they provide more

^{1/} Moducom requested and, with the authorization of Avtec,
received a copy of Avtec's contract, including its technical
proposal and revisions.

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specific information with respect to these issues.^{2/} Our review of the record revealed that the agency had relaxed the specifications for Avtec in four respects, and that there was a reasonable possibility that Moducom was prejudiced as a result since Moducom's price was only slightly higher than Avtec's, its technical score was only slightly lower, and Moducom had met all of the specifications that Avtec had not. We recommended that if the relaxed specifications meet the agency's needs, the solicitation should be amended accordingly and another round of best and final offers should be solicited. Otherwise, we recommended that Avtec's contract be terminated for the convenience of the government and that award be made to Moducom, if otherwise appropriate.

In its request for reconsideration, Avtec argues that our Office did not exercise due diligence in ascertaining the facts in support of the decision, and unreasonably relied on Moducom's evaluation of Avtec's proposal to the exclusion of all other pertinent information. Avtec does not, however, identify any factual error in our decision. Nor does Avtec, even now, specifically refute any of the identified areas in which its proposal was noncompliant.^{3/}

Under our Regulations, a request for reconsideration must contain a detailed statement of the factual and legal grounds upon which a reversal or modification of the initial decision is warranted as well as specify any errors of law made or information not previously considered by this Office in rendering its prior decision. 4 C.F.R. § 21.12(a). Information not previously considered means information that was not available when the initial protest was filed. Norfolk Dredging Co.--Recon., B-236259.2, Oct. 31, 1989, 89-2 CPD ¶ 405. Failure to make all arguments or submit all information available during the course of the initial protest

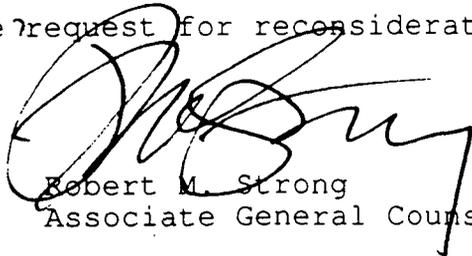
^{2/}Avtec filed comments only on Moducom's initial protest letter and did not specifically rebut any of the technical issues raised in Moducom's protest. The agency report, and the supplemental report received in response to our requests, contained no explanation concerning the deficiencies cited by the protester.

^{3/} Avtec also alleges that Moducom has never manufactured and, thus, cannot meet the specification requirement for a console system utilizing color touchscreen technology. This allegation challenges Moducom's ability to meet the specifications and constitutes a challenge to the agency's affirmative determination of responsibility, and thus is not for review by our Office under the circumstances present here. 4 C.F.R. § 21.3(m)(5) (1991).

undermines the goals of our bid protest forum--to produce fair and equitable decisions based on consideration of all parties' arguments on a fully developed record--and cannot justify reconsideration of our prior decision. The Dep't of the Army--Request for Recon., B-237742.2, June 11, 1990, 90-1 CPD ¶ 546.

Since Avtec was fully apprised of Moducom's protest allegations, and did not specifically rebut them during the initial protest and, in fact, has yet to do so, we have no basis to reconsider our decision.

The request for reconsideration is denied.



Robert M. Strong
Associate General Counsel