



Comptroller General
of the United States

Washington, D.C. 20548

14434-1

Decision

Matter of: Correa Enterprises, Inc.--Reconsideration

File: B-241912.2

Date: July 9, 1991

R.R. (Dick) Flowers, Jr., Esq., Fairfield, Farrow, Hunt, Reecer & Strotz, for the protester.
Linda S. Lebowitz, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration is denied where protester has not shown that previous decision, in which protest issues were dismissed as untimely, was erroneous, and the protest issues do not present significant issues.

DECISION

Correa Enterprises, Inc. (CEI) requests reconsideration of our decision Correa Enters., Inc., B-241912, Mar. 5, 1991, 91-1 CPD ¶ 249. In that decision, we denied CEI's protest challenging the award of a contract to Diversified Business Technologies, Inc. (DBT) under request for proposals (RFP) No. BIA-M00-90-21, issued by the Department of the Interior for on-site programming maintenance and telecommunications support services for the Bureau of Indian Affairs' Office of Data Systems, National Technical Support Center.

We deny the request for reconsideration.

In our decision, we held that the agency's evaluation of proposals was fair and reasonable and in accordance with the RFP's stated evaluation criteria, and that because CEI's and DBT's proposals were reasonably determined to be essentially technically equal, price properly became the determining factor in the selection of DBT as the awardee. We also dismissed as untimely CEI's supplemental protest arguments, first raised in its comments to the agency report, concerning the composition of the technical evaluation team and alleged conflicts of interest with respect to the award of this and other contracts. We determined these issues were untimely because they were not filed within 10 working days after the bases of protest were known or should have been known. Bid

Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1991). We stated that where a protester initially files a timely protest and later supplements it with new and independent grounds of protest, the latter raised allegations must independently satisfy the timeliness requirements since our Bid Protest Regulations do not contemplate the unwarranted piecemeal presentation or development of protest issues, EER Sys. Corp., 69 Comp. Gen. 207 (1990), 90-1 CPD ¶ 123.

In its request for reconsideration, CEI now states that it learned of its supplemental grounds of protest after receiving the agency report and after receiving documents in response to a Freedom of Information Act (FOIA) request. CEI requests that we consider its supplemental grounds of protest pursuant to the significant issue exception to our timeliness requirements as provided by 4 C.F.R. § 21.2(c).

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 not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a).

Here, the record shows that on October 31, 1990, CEI filed its initial protest challenging the agency's evaluation of proposals. On December 5, the agency filed its administrative report and on December 15, CEI filed comments to the agency report. For the first time in its comments to the agency report, CEI challenged the composition of the technical evaluation team and alleged conflicts of interest in the award of this and other contracts. In its comments, CEI made no attempt to establish the timeliness of these supplemental grounds of protest. It did not allege that these protest grounds were based on information contained in the agency report. Based on the record, we found that these protest issues were not timely filed.

In its request for reconsideration, CEI has not provided any information to establish that our conclusion that these supplemental issues were untimely was erroneous. CEI has still not identified when it first learned of the supplemental grounds of protest, despite having the opportunity to do so on reconsideration. Since CEI has not shown any error of fact or law regarding our dismissal of these issues, there is no basis to reconsider this aspect of our decision. 4 C.F.R. § 21.12.

Moreover, we will not now consider CEI's supplemental grounds of protest pursuant to the significant issue exception to our timeliness rules. The significant issue exception is strictly construed and sparingly used to prevent the timeliness rules from becoming meaningless. We will invoke it where the

protest raises an issue of first impression that would be of widespread interest to the procurement community or where the matter has not been considered on the merits in prior decisions. B&S Transport, Inc., B-240906.2; B-240909.2, Sept. 14, 1990, 90-2 CPD ¶ 216; Microeconomic Applications, Inc.--Recon., B-299749.3, Apr. 26, 1988, 88-1 CPD ¶ 404. Here, these matters generally have been addressed in previous cases, see, e.g., Visucom Prods., Inc., B-240847, Dec. 17, 1990, 90-2 CPD ¶ 494; Suncoast Scientific Inc., B-240689, Dec. 10, 1990, 90-2 CPD ¶ 468; Naddaf Int'l Trading Co., B-238768.2, Oct. 19, 1990, 90-2 CPD ¶ 316, and are not of widespread interest to the procurement community.

In view of our conclusion, no useful purpose would be served in conducting a hearing as requested. The request for reconsideration is denied.


James F. Hinchman
General Counsel