



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

Perry
145718

Decision

Matter of: U.A. Anderson Construction
Company--Reconsideration

File: L-244711.2

Date: January 23, 1992

Timothy H. Power, Esq., 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 based on information and arguments that protester could have, but did not, submit in initial protest is denied; General Accounting Office's Bid Protest Regulations do not contemplate piecemeal development of protest issues.

DECISION

U.A. Anderson Construction Company requests reconsideration of our decision, U.A. Anderson Constr. Co., B-244711, Oct. 16, 1991, 91-2 CPD ¶ 339, in which we dismissed its protest of the rejection of its low bid under invitation to bid (ITB) No. M06-9430, issued by the Jet Propulsion Laboratory (JPL), a federally funded research and development center (FFRDC) for the National Aeronautics and Space Administration (NASA). Anderson, a small business, alleged that JPL improperly rejected Anderson as nonresponsible without referring the matter to the Small Business Administration (SBA) for consideration under the SBA's Certificate of Competency (COC) procedures. We dismissed Anderson's protest because there is no legal requirement for an FFRDC to refer a determination of a small business concern's nonresponsibility to the SBA for a COC review, and the protester provided no factual basis to question the FFRDC's nonresponsibility determination.

We deny the request for reconsideration.

In its request for reconsideration, Anderson **appears** to argue that since the agencies involved and JPL did not assert that the SBA does not have COC jurisdiction over a JPL subcontractor, Anderson was unaware that it needed to address that issue, and, therefore, it was unfair of us to

base our decision on that conclusion. The protester also disputes our conclusion that it had not provided any basis to find that JPL's nonresponsibility determination was unreasonable.

Our Regulations require that a protester seeking reconsideration submit a detailed statement of the factual and legal grounds upon which reversal or modification of a prior decision is deemed warranted, specifying any errors of law or fact or information not previously considered. 4 C.F.R. § 21.12 (1991). Information not previously considered means information that was not available to the protester when the initial protest was filed. PDC Machs., Inc.--Recon., B-244724.2, Aug. 7, 1991, 91-2 CPD ¶ 141. Failure to make all arguments or submit all information available during the course of the initial protest undermines the goals of our bid protest forum--to produce fair and equitable decisions based on consideration of both parties' arguments on a fully developed record--and cannot justify reconsideration of our prior decision. The Dep't of the Army--Recon., B-237742.2, June 11, 1990, 90-1 CPD ¶ 546.

Anderson has not established entitlement to reconsideration here. First, our conclusion that the COC requirement was not applicable was based on prior case law. Thus, there was nothing unfair about our reaching our conclusion simply because NASA and SBA did not raise the matter. Second, since Anderson could have supplied evidence concerning its responsibility, but did not do so initially, it is not entitled to do so now. Although Anderson claims that it did provide information concerning its responsibility, in fact, Anderson merely asserted that it should have been found responsible because it had been prequalified by the agency, as evidenced by its having been provided with a copy of the solicitation. As we pointed out in our initial decision, the solicitation was simply provided on request, and the record established that Anderson's assumption that it had been prequalified was mistaken.

The request for reconsideration is denied.



Ronald Berger
Associate General Counsel