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Comptroller General
of the United States

Washington, D.C. 20548

1047117

Decision

Matter of: Tower Corporation--Reconsideration

File: B-254761.4

Date: July 5, 1994

Herbert Wasserman for the protester.
Paul E. Jordan, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration is denied where protester essentially repeats arguments made and considered in initial protest.

DECISION

Tower Corporation requests reconsideration of our decision Tower Corp., B-254761.3, Mar. 8, 1994, 94-1 CPD ¶ 186, in which we denied in part and dismissed in part its protest of the award of a contract to Larken, Inc. d/b/a Holiday Inn Southeast, under request for proposals (RFP) No. OPM-RFP-93-03649. The RFP was issued by the Office of Personnel Management (OPM) for certain leased space and services at the OPM Western Management Development Center.

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

In its protest, Tower challenged the propriety of OPM's amendment of the RFP and the agency's decision to award to Larken. In addition, Tower argued that the amendment of the RFP pursuant to a Justification for Other than Full and Open Competition (Justification) was improper because the Justification contained various flaws making it illegal and ineffective. In our decision, we found that the agency had properly made award to Larken, the offeror whose proposal received the higher technical rating at a lower cost, on the basis of a reasonable technical evaluation. We viewed the

issues concerning the amendment and the Justification as untimely.[1]

In its request for reconsideration, the protester contends that our decision "was improper and not responsive to the facts at hand." In essence, however, Tower repeats arguments it made previously and expresses disagreement with our decision. 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). 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 request for reconsideration is denied.

/s/ Ronald Berger
for Robert P. Murphy
Acting General Counsel

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[1]We note that the only reason the agency issued the Justification was because it mistakenly believed it to be necessary in order to issue the amendment and restrict the competition to the original offerors under Federal Acquisition Regulation (FAR) § 15.606(b)(4). This FAR section requires cancellation of an RFP where the change in an RFP is so substantial as to warrant complete revision of the RFP. In our view, all of Tower's challenges to the Justification are without consequence since the amendment at issue did not require a written Justification. The amendment only involved revision of a single provision; it did not significantly alter the nature and scope of the contract to be awarded, or the obligations of either party, and thus was not "so substantial [as to] warrant complete revision of the solicitation." See Loral Fairchild Corp., B-242957.2, Aug. 29, 1991, 91-2 CPD ¶ 218. Thus, OPM was not required to execute the disputed Justification in order to amend the solicitation.

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July 5, 1994

The Honorable Patricia Schroeder
House of Representatives

Dear Ms. Schroeder:

This is in further response to your letter of March 30, 1994, concerning the request for reconsideration filed by the Tower Corporation. Enclosed is a copy of our decision of today denying Tower's request for reconsideration.

Sincerely yours,

/s/ Ronald Berger
for Robert P. Murphy
Acting General Counsel

Enclosure