

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE:

B-214036.3

DATE:

July 9, 1984

MATTER OF:

Janel, Inc.--Reconsideration

DIGEST:

1. Prior decision is affirmed on reconsideration where protester makes same basic assertion that was made in initial protest and has not shown that government officials acted fraudulently or in bad faith in refusing to issue certificate of competency.
2. Request for conference is denied where merits of protest are not for consideration and conference therefore would serve no useful purpose.

Janel, Inc. (Janel), requests that we reconsider Janel, Inc., B-214036.2, May 22, 1984, 84-1 C.P.D. ¶ 547. In that decision, we dismissed Janel's protest against the refusal by the Small Business Administration (SBA) to issue a certificate of competency (COC) because we will generally not review such matters unless it is shown by the protester that the government officials have acted fraudulently or in bad faith. Jechura's Military Equipment Company, B-209996, Dec. 15, 1982, 82-2 C.P.D. ¶ 539. Janel failed to make such a showing.

In its request for reconsideration, Janel makes the same basic assertion that was made in its initial protest, namely, that the contracting officer overstepped his bounds in dealing with SBA and SBA improperly refused to issue Janel a COC after initially concluding that a COC would be issued. Janel argues that under applicable regulations, SBA's reversal of its initial position was improper because it was not based upon new or additional information, as required under the regulation, but rather on the same information initially considered sufficient to warrant issuance of a COC.

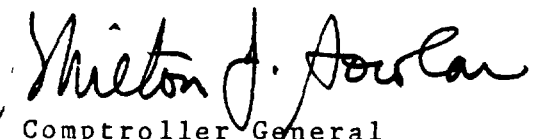
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In our prior decision, we responded to these allegations by pointing out that Defense Acquisition Regulation, § 1-705.4(e), reprinted in 32 C.F.R. pts. 1-39 (1983), contemplates that efforts should be made "to resolve any differences between the SBA and the Departments through a complete exchange of preaward information developed by each agency." While that regulation specifically requires SBA to give the contracting officer the opportunity to furnish "new or additional information," it does not limit efforts "to resolve any differences . . . through a complete exchange of preaward information" to consideration of only new or additional information. In fact, it is our view that to read into the regulation such a limitation would severely restrict efforts to resolve the matter and possibly require an unnecessary appeal by the procuring agency from the regional determination to SBA's headquarters.

Since the protester has not shown that our prior decision was erroneous as to law or fact, it is affirmed.

Janel has requested a conference again. Since the merits of the protest are not for consideration, we believe that a conference would serve no useful purpose. See Zimmerman Plumbing and Heating Co., Inc.--Reconsideration, B-211879.2, Aug. 8, 1983, 83-2 C.P.D. ¶ 182.

for 
 Comptroller General
 of the United States