

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

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FILE: B-212514.2**DATE:** September 19, 1983**MATTER OF:** Norfolk Dredging Company--
Request for Reconsideration**DIGEST:**

Request for reconsideration is denied where the protester fails to raise new issues of fact or to demonstrate errors of law which would cause GAO to reconsider its prior decision.

Norfolk Dredging Company requests reconsideration of our prior decision, Norfolk Dredging Company, B-212514, August 8, 1983, 83-2 CPD ____, in which we summarily denied the firm's protest regarding the decision by the U. S. Army Corps of Engineers, Savannah District, to continue the total set-aside of dredging services for small business. Norfolk now asserts that our decision was reached without benefit of the entire record and a conference on the matter, and that it was contrary to both law and fact. We deny the request for reconsideration.

Under our Bid Protest Procedures, we will summarily deny a protest without benefit of a report from the agency when it is clear on the face of the initial submission that the protest lacks legal merit. (See 48 Fed. Reg. 1931 (January 17, 1983), adding paragraph (g) to our Procedures at 4 C.F.R. § 21.3). In our prior decision of August 8, we found no merit to Norfolk's assertion that the Corps of Engineers had acted improperly in continuing to set aside the procurement in question for small business. As we stressed earlier and as we re-emphasize here, Defense Acquisition Regulation (DAR) § 1-706.1(f) (DAC 76-40, November 26, 1982), specifically provides that once a service has been successfully acquired through a small business set-aside, all future requirements for that service must be set aside unless the contracting officer determines that there is not a reasonable expectation that offers from two responsible small businesses will be received and the award will be at a reasonable price. Nothing in Norfolk's original submission indicated that any prior procurements were not successfully acquired, or that the contracting officer, in his business judgment, did not

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have the "reasonable expectation" required by section 1-706.1(f). Although the firm had argued that the Corps of Engineers could not properly determine price reasonableness because it lacked recent competitive bidding experience of an unrestricted procurement, that argument did not persuade us to question the contracting officer's expectation of reasonable prices in the present circumstance, given the fact that competition exists.

In its request for reconsideration, the firm now asserts that the prior set-aside has been unsuccessful, but offers no evidence apart from its own unsupported allegation that such is the case; it has also not shown or even claimed that awards were made at unreasonable prices, and has not shown how our decision was legally incorrect. Therefore, in our opinion, Norfolk has failed to raise new issues of fact or to demonstrate errors of law which would cause us to reconsider our prior decision. Show-case Corporation--Reconsideration, B-205903.3, December 7, 1982, 82-2 CPD 508.

We also point out that this Office will decline to grant a conference request when it is clear that the protest lacks merit and can be decided summarily, since no useful purpose would be served by the conference. RAD Oil Company, Inc., B-209047, October 20, 1982, 82-2 CPD 352.

Norfolk's request for reconsideration asks that we furnish the firm with copies of all documentation used in reaching our prior decision. Our decision of August 8 was based solely upon the protester's submission to this Office. Therefore, any and all information so utilized is before the protester.

The request for reconsideration is denied.

for Milton J. Aroslaw
Comptroller General
of the United States