

DECISION

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

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FILE: B-213311.2

DATE: August 27, 1984

MATTER OF: Johnson Enterprises, Inc.--Request for
Reconsideration

DIGEST:

Original decision is affirmed where protester fails to establish that the decision was based on errors of law or did not take into consideration all relevant evidence timely presented.

Johnson Enterprises requests reconsideration of our decision Johnson Enterprises, Inc., B-213311, July 24, 1984, 84-2 CPD ¶ _____, denying its protest of a Department of Transportation (DOT) solicitation for travel manual revision services. We affirm our decision.

To review briefly the facts of Johnson's protest, DOT issued a Commerce Business Daily (CBD) notice stating that five named individuals and any other interested offerors establishing their capabilities to perform in a preliminary response would be sent the solicitation. Despite Johnson's contention to the contrary, we found that the notice established a requirement for department level agency travel experience. Johnson did not meet this requirement in its preliminary response and we thus found that DOT properly excluded Johnson from the competition. We did agree with Johnson that it was improper for DOT to send the solicitation to four of the five named individuals since they did not satisfy the experience requirement, but concluded that Johnson was not prejudiced since the award was made to the fifth individual who did satisfy the requirement.

Johnson's reconsideration request is based on two arguments to the effect that the experience requirement in the CBD notice was not an absolute requirement. The first of these--that the experience was not mandatory since the notice termed it only "important"--was specifically addressed in our decision and we found it to be without merit. Johnson has presented no argument or evidence demonstrating that our resolution of the issue in DOT's favor was legally or factually incorrect and we

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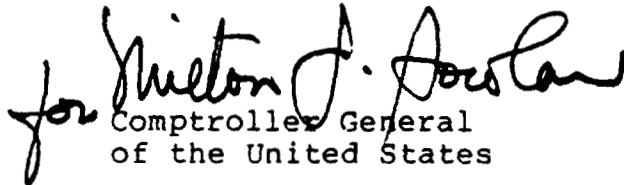
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thus will not consider it again here. See Schultes Level, Inc., B-213014.2, Feb. 27, 1984, 84-1 CPD ¶ 237.

Johnson asserts as its second argument that sending the solicitation to four individuals without department level experience had the effect of waiving this requirement, and that it thus should not have been eliminated from the competition for lacking this experience. This assertion is answered indirectly in our original decision. Implicit in our conclusion there that DOT should not have sent the solicitation to these individuals was our determination that this experience was an absolute requirement; had the requirement been waived, we would not have found it improper to send the solicitation to individuals not meeting the requirement. Johnson has presented no new evidence that DOT did in fact intend to waive the requirement and we therefore reaffirm our conclusion.

We conclude that Johnson has neither shown our decision to be based on errors of fact or law nor presented previously unavailable information which would warrant reversal of our decision. See 4 C.F.R. § 21.9(a) (1984).

We affirm our decision.


Comptroller General
of the United States