

**DECISION**



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

**FILE:** B-219327.5

**DATE:** October 30, 1985

**MATTER OF:** The W.H. Smith Hardware Company--  
Reconsideration

**DIGEST:**

1. Prior decision is affirmed on reconsideration where protester has not shown any error of law or fact which would warrant reversal of that decision.
2. Protester may not successfully advance a new argument in a request for reconsideration that it could and should have advanced in its original protest, as GAO's Bid Protest Regulations do not contemplate the unwarranted piecemeal development of protest issues.

The W.H. Smith Hardware Company (Smith) requests reconsideration of our decision in The W.H. Smith Hardware Company, B-219327.4, Oct. 8, 1985, 85-2 C.P.D. ¶ \_\_\_\_\_. In that decision, we dismissed Smith's protest against the Small Business Administration's (SBA) refusal to issue Smith a certificate of competency (COC) in connection with solicitation No. DLA700-85-B-0286, issued by the Defense Logistics Agency (DLA). Smith had alleged that DLA contracting officials acted in bad faith by submitting reports to SBA, which, according to Smith, improperly assessed the firm's delinquency rate on prior contracts. We found that Smith's disagreement with the delinquency rate in the contracting officer's referral did not amount to a showing of bad faith.

We dismiss the request for reconsideration.

GAO's Bid Protest Regulations require that a request for reconsideration contain a detailed statement of the factual and legal grounds upon which a reversal or

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modification of the initial decision is warranted. 4 C.F.R. § 21.12(a) (1985). The request must specify errors of law or information available to GAO at the time of the original decision that was not considered. Connector Technology Corporation--Request for Reconsideration, B-218780.3, June 18, 1985, 85-1 C.P.D. ¶ 697.

In its request for reconsideration, Smith fails to point out any legal error or misunderstanding of the facts in our prior dismissal of its protest. In fact, Smith states that it no longer wishes to pursue its original protest that DLA contracting officials acted in bad faith. Instead, the firm now complains that the SBA's denial of the COC contains an incorrect finding that Smith's proposed supplier has an "unverifiable" performance record. Since this ground of protest was not raised in Smith's initial protest, it presents us with no valid basis upon which to reconsider our earlier dismissal on the ground of a misunderstanding of the facts. See Connector Technology Corporation--Request for Reconsideration, B-218780.3, supra.

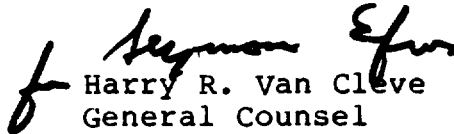
Further, Smith's protest concerning SBA's allegedly incorrect finding with respect to the firm's supplier is untimely. A protester may not successfully introduce a new ground of protest in a reconsideration request that could and should have been made in its original protest, as our Bid Protest Regulations do not contemplate the unwarranted piecemeal development of protest issues. Connector Technology Corporation--Request for Reconsideration, B-218780.3, supra; Riverport Industries, Inc.--Request for Reconsideration, B-218056.2, May 21, 1985, 85-1 C.P.D. ¶ 576; TRS Design & Consulting Services--Reconsideration, B-214011.2, July 10, 1984, 84-2 C.P.D. ¶ 34.

Smith was aware of the SBA's finding concerning its supplier's performance prior to filing its original protest with this Office on September 20, 1985. In fact, Smith submitted a copy of that finding with its original protest. Accordingly, Smith's protest concerning this issue, raised for the first time in its October 16 reconsideration request (almost a month after its initial protest was filed and the basis for protest was known) is untimely and not for our consideration on the merits. See TRS Design & Consulting Services--Reconsideration, B-214011.2, supra.

Finally, Smith states that DLA, after requesting an extension of time from SBA to file evidence of the firm's nonresponsibility, failed to file such evidence. Smith

maintains that the COC proceedings in connection with this and four other solicitations were needlessly delayed. However, Smith's initial protest (as discussed above) challenged the accuracy of DLA submissions to SBA, which indicated that Smith had over a 33-percent delinquency rate on prior contracts. Thus, it appears that DLA furnished SBA with such evidence of the firm's nonresponsibility.

The request for reconsideration is dismissed.

  
Harry R. Van Cleve  
General Counsel