



**Comptroller General  
of the United States**

**Washington, D.C. 20548**

**Decision**

**Matter of:** Kim Van Company, Inc.--Reconsideration

**File:** B-238890.2

**Date:** November 26, 1990

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Joel S. Rubinstein for the protester.  
Vera Meza, Esq., and Gerald T. Williams, Esq., Department of  
the Army, for the agency.  
Sylvia Schatz, Esq., and John M. Melody, Esq., Office of the  
General Counsel, GAO, participated in the preparation of the  
decision.

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**DIGEST**

Request for reconsideration based on information protester  
timely could have submitted, but did not, during initial  
consideration of the protest is denied.

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**DECISION**

Kim Van Company, Inc. requests that we reconsider our decision  
in Kim Van Co., Inc., B-238890, July 6, 1990,  
69 Comp. Gen. \_\_\_\_, 90-2 CPD ¶ 17, wherein we denied its  
protest of the Army's nonresponsibility determination under  
invitation for bids (IFB) No. DAAA21-89-B-0514, issued as a  
total small business set-aside for the removal of all asbestos  
contaminated materials at Picatinny Arsenal, New Jersey. We  
deny the request.

In its protest, Kim Van stated that misinformation from the  
contracting agency led the Small Business Administration (SBA)  
mistakenly to believe that a New Jersey asbestos removal  
license not then held by Kim Van was required for performance  
of the contract and, as a result, caused the SBA to decline to  
issue Kim Van a certificate of competency (COC). We found  
that the SBA's denial of the COC was proper, even though the  
SBA apparently mistakenly believed that a New Jersey asbestos  
removal license was required (and incorrectly advised Kim Van  
of the COC denial on this basis), since the record showed that  
an equally important basis upon which the SBA denied the COC  
was that it believed Kim Van would not be able to obtain  
approval of a required asbestos transportation license in  
time to perform.

In its request for reconsideration, the protester maintains that the SBA denied the COC not on the basis that it failed to possess both the removal and transportation license, but solely on the mistaken belief that Kim Van did not possess, and would not be able to obtain, a removal license in time to perform. As evidence of this, Kim Van maintains that the SBA knew, at the time it denied Kim Van's COC, that A.R. Transportation, a prospective subcontractor, possessed a valid transportation license because the SBA was provided with a letter, dated December 26, 1989, in which that firm promised Kim Van that it would transport asbestos for this project. Kim Van concludes that the SBA must have denied its COC solely for its failure to possess a removal license.

Under our Regulations, to obtain reconsideration the requesting party must show that our prior decision was based on 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) (1990). Our Regulations do not permit a piecemeal presentation of evidence, information, or analysis, since a piecemeal presentation could disrupt the procurement process indefinitely; accordingly, where a party raises in its reconsideration request an argument that it could have raised, but did not, at the time of the protest, the argument does not provide a basis for reconsideration. HH&K Builders, Inc.--Recon., B-238095.2, May 8, 1990, 90-1 CPD ¶ 458.

Under this standard, Kim Van's contention that it had a contract with a licensed subcontractor to transport the asbestos at the time of the SBA's denial of a COC is not a basis for reconsidering our decision because Kim Van did not timely advise our Office of this information during our consideration of the protest. Kim Van's delay in this regard undermines the goal of our bid protest forum to produce a decision based on a fully developed record. HH&K Builders, Inc.--Recon., B-238095.2, supra.

Kim Van claims that it submitted additional information on its intended use of a subcontractor to our Office on June 28, as soon as it became aware that a licensed transportation subcontractor might be an issue in the protest, but that our Office declined to accept this information because it was submitted after Kim Van already had filed its comments on the agency report. The protester argues that our Office should have accepted Kim Van's additional information, submitted on June 28, since the agency was allowed to submit additional information on May 30 and June 15 after Kim Van filed its comments on the agency report.

After the protester has filed comments on the agency report, our Office will only consider additional information that we

deem necessary to clarify issues or otherwise assure fair resolution of the protest. 4 C.F.R. § 21.3(1). After Kim Van submitted its comments on April 25, we asked the agency specific questions about information presented by Kim Van on two occasions, to which the agency responded in letters dated May 30 and June 15. Kim Van, in turn, specifically responded to the agency's additional submissions in letters to our Office dated May 31 and June 18, the latter of which we considered to close the record. Kim Van, however, subsequently attempted to submit additional, unsolicited information to our Office on June 28, which we declined to accept because both parties had already been given a full opportunity to submit their arguments on all issues. Therefore, our refusal to consider additional information Kim Van attempted to furnish on June 28 is not a basis upon which we will reconsider our decision.

Moreover, Kim Van's argument that it submitted information on its transportation arrangements as soon as it learned that a transportation license could be an issue is specious. In its supplemental letter of May 30, the Army advised that "the COC Review Committee considered Kim's failure to have a New Jersey transporting or disposal license to be a negative factor which would preclude the issuance of a COC." Although Kim Van thus in fact was on notice that a transportation license was in issue, it did not advise us of its alleged subcontract arrangement in its response of May 31, its further filing of June 11, or its June 18 response to a further Army submission. Indeed, in its June 18 letter, Kim Van specifically addressed the awardee's subcontract arrangement, stating that "the fact remains that the party in possession of the handling license is a subcontractor and one that could easily have been utilized by Kim Van." This language shows that, contrary to Kim Van's arguments on reconsideration, the firm was fully aware of the issue at least as of the time of its June 18 submission and, further, strongly suggests that it did not have an arrangement in place with a properly licensed subcontractor at that time.

The request for reconsideration is denied.



Ronald Berger  
Associate General Counsel