



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Bildon, Inc.--Reconsideration

File: B-241375.2

Date: February 21, 1991

Donnell R. Fullerton, Esq., for the protester.
Catherine M. Evans and John M. Melody, Esq., Office of the
General Counsel, GAO, participated in the preparation of the
decision.

DIGEST

Prior decision dismissing protest as essentially involving a
dispute between private parties is affirmed on reconsideration
where protester does not establish that decision contained
errors of fact or law, or present information not previously
considered that would warrant reversal or modification of
decision.

DECISION

Bildon, Inc. requests reconsideration of our decision,
Bildon, Inc., B-241375, Oct. 25, 1990, 90-2 CPD ¶ 332, in
which we dismissed its protest of the award of a contract to
Trataros/Basil under request for proposals (RFP) No. F07603-
90-R-8202, issued by the Department of the Air Force for
construction work at Dover Air Force Base, Delaware.

We affirm the dismissal.

In its protest, Bildon alleged that Trataros/Basil was awarded
the contract after the Bildon employee responsible for
preparation of its proposal, Mr. Chason, left the firm and
accepted employment with Trataros/Basil, and that Mr. Chason
had provided Trataros/Basil with information about Bildon's
proposal during the procurement process. We held that the
protest concerned a dispute between private parties involving
improper business practices, which is outside the scope of our
bid protest function. See Sublette Elec., Inc., B-232586,
Nov. 30, 1988, 88-2 CPD ¶ 540.

In its request for reconsideration, Bildon contends that we
mischaracterized its protest as involving a dispute solely
between private parties, asserting that the agency was an
"active participant" in the alleged wrongdoing. In this
regard, Bildon notes that Mr. Chason was still employed by

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Bildon when he was presented as Trataros/Basil's proposed project manager in that firm's technical proposal, that the agency evaluated his qualifications, and that the agency approved the post-award hiring of Mr. Chason to fill the project manager position.

Bildon's argument is without merit. The fact that the agency evaluated Mr. Chason's qualifications and subsequently approved Trataros/Basil's hiring of Mr. Chason does not implicate the agency in any improper practice in which Trataros/Basil or Mr. Chason might have engaged. Although the record shows that Mr. Chason represented Bildon at a pre-proposal conference in April 1990, Bildon does not offer any evidence that the agency knew the extent of Mr. Chason's involvement in the preparation of Bildon's proposal, or indeed that he was involved in that effort at all. Further, Bildon does not explain how the agency would have known or suspected that Mr. Chason might have provided information about Bildon's proposal to Trataros/Basil during the course of the procurement. Finally, the fact that Mr. Chason was still employed by Bildon when Trataros/Basil proposed him as project manager, even assuming the agency knew of it, is itself unobjectionable; it is not unusual nor inherently improper for a firm to include employees of other offerors in their technical proposals. See Booz, Allen & Hamilton, Inc., B-236476, Dec. 4, 1989, 89-2 CPD ¶ 513.

Bildon asserts that, under the standard set forth in NKF Eng'g, Inc., 65 Comp. Gen. 104 (1985), 85-2 CPD ¶ 638, the alleged actions of Mr. Chason and Trataros/Basil during the procurement process suggest the appearance of impropriety, warranting a decision setting aside the award to Trataros/Basil. Again, Bildon's argument is without merit; our decision in NKF Engineering is inapposite here. In that case, we held that an agency properly excluded an offeror from competition based on a possible unfair competitive advantage caused by the offeror's employment of a former agency official who had access to information about other offerors' proposals. Here, Trataros/Basil did not employ a former agency official, and the agency did not have any other reason to question Trataros/Basil's offer of Mr. Chason as the project manager; as noted above, Bildon provides no evidence to establish that the agency knew of the nature of Mr. Chason's employment with Bildon. Thus, unlike the situation in NKF Engineering, there was no appearance of impropriety upon which the agency could have decided to exclude Trataros/Basil from the competition.

Bildon's protest raised several additional allegations which we also dismissed; Bildon does not challenge our findings as to those other issues. As Bildon does not allege any errors of fact or law or present information not previously considered that warrants reversal or modification of our

decision, the decision is affirmed. 4 C.F.R. § 21.12(a)
(1990); R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21,
1988, 88-2 CPD ¶ 274.



Ronald Berger
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