



Comptroller General
of the United States

Washington, D.C. 20548

143662

Decision

Matter of: Roy McGinnis & Co., Inc.--Reconsideration

File: B-243626.3

Date: January 14, 1992

Theodore M. Bailey, Esq., for the protester, Barbara C. Coles, Esq., and Andrew T. Pogany, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration is denied when based on arguments that should have been but were not raised by the protester in the course of the original protest because protester failed at that time to diligently obtain relevant documents.

DECISION

Roy McGinnis & Co., Inc. requests reconsideration of our decision, Roy McGinnis & Co., Inc., B-243626.2, Aug. 26, 1991, 91-2 CPD ¶ 196, in which we denied its protest challenging the cancellation of invitation for bids (IFB) No. DACA03-91-B-0044, issued by the Department of the Army for the construction of a Computer System Center in San Antonio, Texas.

We deny the request for reconsideration.

In upholding the Army's decision to cancel the IFB after bid opening and to resolicit, we found the cancellation based on revised specifications was proper because the original specifications in the solicitation failed to state accurately the Army's minimum needs in some respects and overstated its minimum needs in other respects.

In its request for reconsideration, the protester expresses disagreement with our decision. In doing so, the protester states that our decision was based on the fact that the protester did not refute the agency's contentions that some of the specifications were inadequate with regards to the original IFB's raised floor requirements. The protester argues that while the agency did state that "the specification for the performance requirements of the raised floor system originally exceeded the [g]overnment's actual minimum needs," the protester nevertheless "was not put on any kind

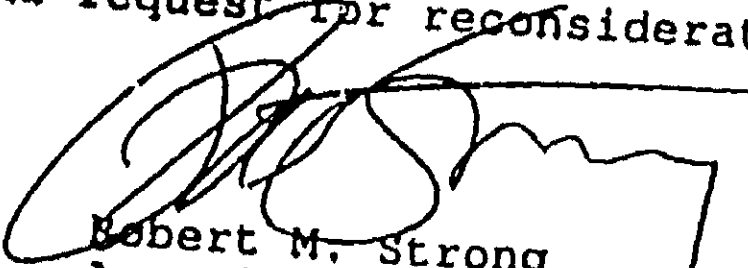
of notice that these items were the basis upon which the [g]overnment was justifying the cancellation." As a result, the protester for the first time attempts to refute the agency's allegations regarding the overstatement of the agency's needs with regard to the performance requirements of the raised floor system in its reconsideration request.

In order for a protester's request for reconsideration to be considered by our Office, our Regulations require that the protester submit a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law or fact or information not previously considered. 4 C.F.R. § 21.12 (1991). Information not previously considered means information that was not available to the protester when the initial protest was filed. Global Crane Inst.--Recon., B-218120.2, May 28, 1985, 85-1 CPD ¶ 606. Any other interpretation would permit a protester to present information in a piecemeal fashion and undermine our goal of affording parties the opportunity to present their cases with the least disruption possible to the orderly and expeditious conduct of government procurements. Dynalelectron Corp., 65 Comp. Gen. 92 (1985), 85-2 CPD ¶ 634.

The protester complained during the course of the original protest that it had not received the agency report. At that time, the protester so notified our Office, and we specifically advised the protester on July 9 to request the agency to furnish all documents in the agency report including, but not limited to, the bid abstract, the revised solicitation, and the original solicitation. The protester now states that on July 15 it received only portions of the agency report, namely, the contracting officer's statement of facts, a legal memorandum, and a 5-page cover letter to the agency report. Even though the protester thus should have been aware that the documents it received from the agency did not comprise the entire record before us, the protester failed either to subsequently advise our Office that it did not receive all the documents or to request these documents from our Office. The protester nevertheless concedes that it received copies of relevant information from the agency, including the statement that "the specification for the performance requirements of the raised floor system originally exceeded the [g]overnment's minimum needs." Any rebuttal from the protester regarding the alleged overstatement of the floor specifications in the original solicitation should properly have been submitted in its comments on the agency report, since the agency raised the issue in the agency report and the information should have been available

to the protester at that time. Since the protester failed to diligently obtain all relevant documents, we decline to review its piecemeal rebuttal and, further, decline to reconsider our decision.

The request for reconsideration is denied.



Robert M. Strong
Associate General Counsel