



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: RC 27th Avenue Corporation--Reconsideration

File: B-246727.2

Date: May 20, 1992

Carmine Gargano for the protester.
Behn Miller, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration is denied where it is based on evidence that could have been but was not submitted by protester in the course of the original protest.

DECISION

RC 27th Avenue Corporation requests reconsideration of our March 9, 1992 decision dismissing its protest against the award of a contract to Atlantis Construction Company under invitation for bids (IFB) No. N62472-90-B-3983, issued by the Department of the Navy for pest control services at the Staten Island and Dayton Manor Naval Stations in New York.

We deny the request for reconsideration.

The IFB was issued on July 24, 1991, and solicited bids for a combination firm, fixed-price and indefinite quantity contract. The IFB provided that award would be made to the responsive, responsible bidder offering the lowest total price for both bid schedules; in this regard, bidders were required to submit their bids on an "all or none" basis.

On August 16, the Navy issued amendment No. 0001 to the IFB which added several new performance requirements. At the August 26 bid opening, five bids were received. The results were as follows:

| | |
|-----------------------|-----------|
| Irpinia Bugaway | \$ 56,182 |
| RC 27th Avenue | 65,158 |
| Atlantis Construction | 68,125 |
| Bond Exterminating | 124,513 |
| Grand Central | 150,790 |

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In its initial protest--filed with this Office on November 20--RC argued that its bid had been improperly rejected as nonresponsive.¹ Specifically, RC contended that its failure to acknowledge amendment No. 0001 should have been waived by the agency as a minor informality since the amendment did not change RC's bid price and because the agency never provided RC with a copy of the amendment prior to bid opening.

Under the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3556 (1988), only an "interested party" may protest a federal procurement. That is, a protester must be an actual or prospective supplier whose direct economic interest would be affected by the award of a contract or the failure to award a contract. See Bid Protest Regulations, 4 C.F.R. § 21.0(a) (1992). Where there is another party that has a greater interest than the protester, we generally consider the protester to be too remote to establish interest within the meaning of our Regulations. See Telos Corp., B-246177, Jan. 13, 1992, 92-1 CPD ¶ 61.

In this case, we dismissed RC's initial protest since the record showed that in the event RC's protest were sustained, another bidder--Irpinia Bugaway, whose bid was also rejected due to its failure to acknowledge amendment No. 0001--rather than the protester would be in line for award. RC did not question the eligibility of Irpinia; in fact, RC specifically asserted that amendment No. 0001 had no impact on its bid price or on the relative standing of bidders. Since RC's own interpretation of the record confirmed that Irpinia held a greater interest than the protester, we dismissed RC's protest. See System-Analytics Group Corp., B-244394, Oct. 3, 1991, 91-2 CPD ¶ 289.

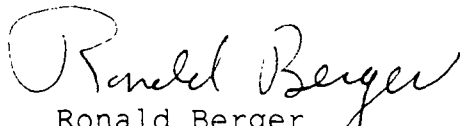
On reconsideration, RC has provided this Office with an affidavit signed by the president of Irpinia Bugaway which purports to demonstrate RC's interested party status. RC claims that the Irpinia affidavit demonstrates that Irpinia was never, at any time following award, interested in pursuing award under this solicitation.²

¹RC first raised these allegations in an agency-level protest filed with the contracting specialist on October 9; however, instead of waiting for an agency determination on its agency-level protest, RC proceeded with its November 20 protest to this Office.

²In the affidavit, which is dated March 27, the company's president stated:

Our Bid Protest Regulations do not envision a piecemeal presentation of evidence, information or analysis since the failure to make all arguments or submit all information during the course of the initial protest undermines the goals of our bid protest function to produce fair and equitable decisions based on consideration of all parties' arguments on a fully developed record. Logitek, Inc.--Recon., B-241639.4, Aug. 30, 1991, 91-2 CPD ¶ 221. Accordingly, we do not reconsider decisions on the basis of previously available information; a protester that fails to submit all relevant information in its initial protest does so at its own peril. GMI Indus., Inc.--Recon., B-231998.2, Mar. 23, 1989, 89-1 CPD ¶ 297. As a result, RC's attempt to demonstrate its interested party status provides no basis for reconsidering our prior decision. Robert Wall Edge--Recon., 68 Comp. Gen. 352 (1989), 89-1 CPD ¶ 335.

The request for reconsideration is denied.



Ronald Berger
Associate General Counsel

"I have no interest in being considered for this solicitation now as I believe that the original bid was rejected arbitrarily for reasons that did not appear to have been objective."