



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Rogers Machine and Engineering--Reconsideration

File: B-245869.3

Date: June 18, 1992

Chris A. Hirlinger for the protester.
Lt. Col. William H. Spindle, Department of the Air Force,
for the agency.
Tania L. Calhoun 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 protester does not show any error of fact or law, or present information not previously considered, that would warrant reversal or modification of prior decision that agency properly canceled solicitation because of an ambiguity in the specifications.

DECISION

Rogers Machine and Engineering requests reconsideration of our decision, Rogers Mach. and Eng'g, B-245869.2, Mar. 12, 1992, 92-1 CPD ¶ 279. In that decision, we denied Rogers's protest challenging the Department of the Air Force's decision to cancel after bid opening invitation for bids (IFB) No. F22600-91-B-0090, for transient aircraft services at Keesler Air Force Base, Biloxi, Mississippi.

We deny the request for reconsideration.

The IFB required bidders to submit prices for all personnel, equipment, tools, materials, supervision, and other items and services necessary to perform in accordance with the IFB's performance work statement. The IFB called for the services to be provided from 7 a.m. to 11 p.m., 7 days per week, including holidays.

After bid opening the agency conducted a pre-award survey of Rogers, the apparent low bidder, which included a request that Rogers submit a chart showing its staffing schedule. The chart showed that between 7 and 8 a.m., and between 5 and 11 p.m., weekdays, the protester scheduled only one employee; Rogers scheduled two employees during the weekend hours of operation.

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The contracting officer reviewed the IFB and ultimately concluded that it was ambiguous and did not clearly set out the agency's staffing requirements. In the contracting officer's view, rather than clearly calling for two employees during all normal operating hours, 7 days per week, as actually required by the agency, the IFB may have improperly led bidders to conclude, as Rogers indicated in its proposed schedule, that the requirement for a minimum of two employees on duty applied only to weekends. Accordingly, the contracting officer canceled the IFB as ambiguous.

In its protest, Rogers contended that the cancellation was improper. The protester argued that the IFB was not ambiguous because it clearly contained a 2-employee minimum staffing requirement only for weekends. Rogers contended that the agency's true reason for canceling the IFB was related to an alleged improper communication between the agency and another bidder, Clark Associates, specifically, a conversation during which the agency's Quality Control Evaluator advised Clark that the agency's requirement was for two employees on duty 7 days a week, not only on weekends.

We denied Rogers's protest on the basis that, from our reading of the solicitation as a whole, there were at least two reasonable interpretations of the IFB's staffing requirements, resulting in an ambiguity. While the agency apparently intended to inform bidders that it required at least two employees during all normal operating hours as defined in paragraph No. 1.6.1 of the IFB--i.e., a minimum of two employees at all times between 7 a.m. and 11 p.m., including weekdays and weekends--the wording and location of the relevant provisions in the IFB could have been misleading. Since we determined that the IFB was ambiguous, we concluded that cancellation was appropriate.

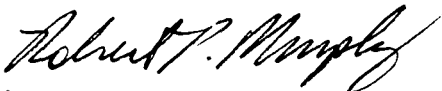
Rogers now requests reconsideration of our decision, in essence repeating arguments it made previously and expressing disagreement with our decision. Under our Bid Protest Regulations, to obtain reconsideration the requesting party must show that our prior decision contains either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1992). Rogers has not met that standard here.

We find nothing in Rogers's request for reconsideration that shows that our prior decision was legally or factually wrong. Basically Rogers disagrees with our finding that the IFB was ambiguous, arguing, as it did in its original submissions, that the IFB was not ambiguous. The repetition of arguments made during our consideration of the original

protest and mere disagreement with our decision does not warrant reconsideration of the prior decision. R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

As to Rogers's contention that there was an improper communication between the agency and Clark, Rogers submitted nothing to support its allegation in the initial protest; instead, for the first time in its request for reconsideration, Rogers submitted an affidavit from the Clark employee involved in the conversation.¹ Our Regulations do not contemplate the piecemeal presentation of arguments or information relating to a protest. Since Rogers did not present any support for this allegation in its initial protest, we will not consider it now.² H H & K Builders, Inc.--Recon., B-238095.2, May 8, 1990, 90-1 CPD ¶ 458.

The request for reconsideration is denied.


for James F. Hinchman
General Counsel

¹In the affidavit, the employee states that in response to his oral request for clarification regarding the staffing requirements, the agency's "Quality Assurance Evaluator" told him that the agency's requirement was for two employees to be on duty during normal operating hours, 7 days a week.

²Even assuming the communication occurred as Rogers now describes, we fail to see how this demonstrates that the cancellation was improper. Rogers asserts that it and the second and third low bidders interpreted the IFB in the same way; Clark, the fourth low bidder, interpreted it differently, in Rogers's view, as a result of its improper communication with the contracting agency. Based on this, Rogers argues that the IFB was not ambiguous. However, even if the IFB were not ambiguous--i.e., if it clearly required two employees only on the weekends, as Rogers contends--cancellation still would be appropriate because award under the IFB would not meet the agency's need for two employees on duty during normal operating hours, 7 days a week.