



Comptroller General
of the United States

Washington, D.C. 20548

14-1332

Decision

Matter of: Century 21-AAIM Realty, Inc.--Request for
Reconsideration

File: B-246760.2

Date: August 6, 1992

Shelton H. Skolnick, Esq., for the protester,
Barbara C. Coles, Esq., and Christine S. Melody, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Bid Protest Regulations require party requesting reconsideration of prior decision to show that decision contains errors of fact or law or to present information not previously considered that warrants reversal or modification of decision; repetition of arguments made during consideration of the original protest and mere disagreement with decision do not meet this standard.

DECISION

Century 21-AAIM Realty, Inc. requests reconsideration of our decision in Century 21-AAIM Realty, Inc., B-246760, Apr. 3, 1992, 92-1 CPD ¶ 345, holding that the Department of the Army's evaluation of the protester's proposal for home-finding and/or relocation assistance services was reasonable and in accordance with the solicitation's evaluation factors.

We deny the request for reconsideration.

In its original protest, Century 21 contended that the agency improperly evaluated and downgraded its proposal by allegedly considering factors that were not specified in the solicitation. Specifically, Century 21 argued that it was improper for the Army to characterize Century 21's discussion of its quality assurance plan and proposed rental assistance program as weaknesses in the proposal.

In its request for reconsideration, Century 21 does not discuss our findings regarding the agency's evaluation and subsequent downgrading of its proposal based on weaknesses in its quality assurance plan and its rental assistance plan. Century 21 does, however, challenge--as it did in its

original protest--the agency's alleged evaluation and subsequent downgrading of its proposal based on the protester's failure to sign certain representations and certifications and the protester's noncompliance with the solicitation prohibition on including in the proposal "brochures, news clippings, and fancy charts." Century 21 argues that our decision is erroneous because we failed to address the propriety of the agency's evaluation in these areas.

Under our Bid Protest Regulations, to obtain reconsideration the requesting party must either show that our prior decision contains 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). Repetition of arguments made during our consideration of the original protest and mere disagreement with our conclusion do not meet this standard. R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

Century 21 essentially reiterates its dissatisfaction with the agency's evaluation of its proposal and with our conclusion that the evaluation and the resulting awards under the solicitation were proper; however, Century 21's reconsideration request--like its original protest--lacks any evidence that the evaluation and the resulting awards were improper.


To the extent that Century 21 argues that we failed to consider its argument that the agency improperly downgraded its proposal based on the protester's failure to sign certain representations and certifications as well as the protester's failure to comply with the solicitation's prohibition on extraneous documents, the record before us--including the evaluation documents--showed that the agency considered these failures to be minor weaknesses in the protester's proposal. As a result, our decision focused on the areas of the protester's proposal that were perceived to have major weaknesses and that were downgraded accordingly. Since the protester has not attempted to show that this conclusion is erroneous, the protester has not met the standard warranting modification of our decision.

Similarly, the protester's other argument--that our decision is erroneous because we failed to address its contention that the Army violated Federal Acquisition Regulation (FAR) § 15.609(a)¹ when it excluded the protester's proposal from the competitive range--does not meet the standard warranting modification of our decision. While we did not address the protester's objection in our decision, we did consider it.

¹In relevant part, FAR § 15.609(a) provides that when there is doubt as to whether a proposal is in the competitive range, the proposal should be included.

However, we found that (1) rather than establishing a competitive range, the agency in fact made awards based on initial proposals to the two technically superior realty firms, and (2) FAR § 15.609(a) is not directly applicable to a procurement such as this one where the services requested do not involve the use of appropriated funds. See Competition in Contracting Act of 1984 (CICA), 10 U.S.C. § 2303 (1988); FAR § 2.101. As stated in our original decision, where CICA, the basic procurement statute, and its implementing regulations, the FAR, are not applicable to a procurement that is within our jurisdiction, we review the actions taken by the agency to determine whether they are reasonable. See Flexsteel Indus., et al., 69 Comp. Gen. 61 (1989), 89-2 CPD ¶ 435. Here, we found the agency's rejection of the protester's proposal to be reasonable; therefore, we had no basis to question the agency's award based on initial proposals to the two superior offerors. The protester's mere disagreement with our conclusion does not provide a basis for us to reconsider whether the awards were made properly.

The request for reconsideration is denied.



James F. Hinchman
General Counsel