



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Anderson Columbia Co., Inc.--Reconsideration

**File:** B-249475.4

**Date:** March 10, 1993

Jeffrey A. Lovitky, Esq., for the protester.  
J. Hatcher Graham, Esq., for Colas Road Contractors, an interested party.  
Catherine M. Evans, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Decision dismissing protest on procedural grounds is affirmed; protester's argument that General Accounting Office waived its right to dismiss the protest by stating in an earlier, related decision that the remaining protest issues would be addressed "on the merits" in a future decision is without merit and provides no basis for reconsideration.

### DECISION

Anderson Columbia Co., Inc. requests reconsideration of our decision, Anderson Columbia Co., Inc., B-249475.3, Feb. 5, 1993, 93-1 CPD ¶ \_\_\_\_, in which we dismissed its protest of an award of a contract to Colas Road Contractors under invitation for bids (IFB) No. N62470-92-B-2229, issued by the Naval Facilities Engineering Command for repair and resurfacing of the runway at the U.S. Naval Air Station, Guantanamo Bay, Cuba.

We affirm our decision.

In its September 24, 1992, protest, Anderson advanced six separate allegations concerning the propriety of the Navy's award to Colas. On October 27, we summarily dismissed all but two of the allegations for various reasons, without requiring a response from the Navy. Our dismissal decision stated that we would address the merits of the remaining two allegations--that the award to Colas violated the terms of the Balance of Payments (BOP) Program, and that the Navy improperly planned to use funds from its operations and maintenance (O&M) account to pay for the project--in a later decision. We then requested and received a report from the

Navy on the merits of those two issues. On February 5, 1993, we issued our decision dismissing the protest as to the two remaining issues, concluding that Anderson's BOP allegation had been untimely filed, and that Anderson was not an interested party eligible to challenge the Navy's funding of Colas' contract.

In its reconsideration request, Anderson asserts that our February 5 dismissal of its protest was improper because our October 27 decision had stated that we would consider the remaining protest issues "on the merits"; Anderson contends that our dismissal of these issues on procedural grounds, without considering their merits, was inconsistent with this statement.

In order to obtain reconsideration, the requesting party must present a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made or information not previously considered. Bid Protest Regulations, 4 C.F.R. § 21.12(a) (1992). Anderson has not alleged that our conclusions as to timeliness or its interested party status were based on any error of fact or law, and has not presented any other information that would warrant reconsidering those conclusions. We stated on October 27 that the remaining protest issues would be considered "on the merits" because, at that time, we had no information establishing that they were untimely or for some other reason we were not authorized to address them. In order to fully consider the issues, we needed to obtain additional information and arguments from the agency and the protester. The statement that we would consider the issues on the merits did not operate to suspend our procedural and jurisdictional requirements, or preclude us from properly dismissing the remaining protest issues once the necessity for doing so became clear. See Loque Boston Ltd. Partnership--Recon., B-246796; B-246796.2, July 2, 1992, 92-2 CPD ¶ 1.

The prior decision is affirmed.

  
for James F. Hinchman  
General Counsel