



Comptroller General
of the United States

3111411

Washington, D.C. 20548

Decision

Matter of: JA & Associates, Inc.--Reconsideration

File: B-256280.5

Date: November 14, 1994

DECISION

JA & Associates, Inc. requests reconsideration of our decision JA & Assocs.; Son's Quality Food Co., B-256280.2; B-256280.4, Aug. 19, 1994, 94-2 CPD ¶ ____, denying its protest of the cancellation of request for proposals (RFP) No. DAJB03-94-R-0012, issued by the Department of the Army, for the operation of Army dining facilities in the Republic of Korea. JA disagrees with various factual and legal findings in our decision.

We deny the request.

With the few exceptions discussed below, the protester, in essence, repeats the arguments that it made previously and expresses disagreement with our decision. Under our Bid Protest Regulations, to obtain reconsideration, the requesting party must show that our prior decision may contain 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) (1994). The repetition of arguments made during our consideration of the original protest and mere disagreement with our decision do not meet this standard. R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.


JA also asserts that the propriety of a novation agreement is not a matter of contract administration, as we found in our prior decision, and is thus within our bid protest jurisdiction. Contrary to JA's argument, we have specifically found "the propriety of the novation is a matter of contract administration and therefore not for consideration by our Office." See Vantex Serv. Corp., B-251102, Mar. 10, 1993, 93-1 CPD ¶ 221.

JA argues that it was "denied the benefits of modern pleading as in the U.S. Code of Civil Procedure." This complaint is essentially that the agency did not provide it all the documents made available to another protester in this matter, Son's Quality Food, and our Office. The documentation provided by the agency in response to the

Son's Quality Food protest was furnished under the coverage of a protective order, to which Son's outside counsel was admitted. See 4 C.F.R. § 21.3(d)(1). JA did not request that a protective order be issued in its protest, despite the fact that the agency report furnished to JA contained redacted documents which could not be released in their entirety absent a protective order. Moreover, even if a protective order had been requested and issued in JA's protest, JA has made no showing that its representative--who is the protester's general counsel and vice president--would have been eligible for admission under the standards enunciated in U.S. Steel Corp. v. United States, 730 F.2d 1465 (Fed. Cir. 1984). Absent the issuance of a protective order and the admission of JA's representative, JA was not entitled to receive the protected documents which the agency subsequently furnished to our Office and to Son's.

Furthermore, JA is incorrect that it lacked the necessary information to argue, as Son's did, that the agency should have proceeded with award under the RFP and declined to exercise an option under the existing contract, even after novating the contract to a firm which agreed to undertake the bankrupt incumbent contractor's debt. We dismissed Son's allegation in this regard as untimely because it was not raised within 10 days of when the protester learned the agency's justification for its actions. 4 C.F.R. § 21.2(a)(2). JA was apprised of the agency's justification for its actions when it received the agency report in response to its protest, and we will not entertain the protester's untimely attempt to resurrect this issue.

The request for reconsideration is denied.



for Robert P. Murphy
Acting General Counsel