

Ronald Berger



Comptroller General
of the United States

355216

Washington, D.C. 20548

Decision

Matter of: American International Contractors, Inc.--
Reconsideration

File: B-260727.2

Date: June 23, 1995

DECISION

American International Contractors, Inc. (AICI) requests reconsideration of our decision in American Int'l Contractors, Inc., B-260727, May 31, 1995, 95-1 CPD ¶ ____, in which we denied its protest challenging the determination by the Department of State that Cosmopolitan, Inc./Contract International, Inc. Joint Venture was the successful offeror under request for proposals (RFP) No. S-FBOAD-95-R-0019. We denied the protest because the agency's challenged interpretation of the Percy Amendment, 22 U.S.C. § 302 (1988), was legally unobjectionable, and the errors that occurred during the discussions held with offerors did not warrant sustaining the protest, since those errors did not prejudice AICI. In its request for reconsideration, AICI argues that, as to the latter issue, our decision was based on an error of law.

We deny the request for reconsideration.

The sole basis that AICI advances for requesting reconsideration is its view that the decision is inconsistent with Ranor, Inc., B-255904, Apr. 14, 1994, 94-1 CPD ¶ 258. In Ranor, we sustained the protest because we concluded that "Ranor was misled to its prejudice during discussions."¹ AICI contends in its request for reconsideration that the facts of the instant procurement are "almost identical" to those of Ranor, since the Department of State advised AICI during discussions of concern about certain proposed prices being low when that

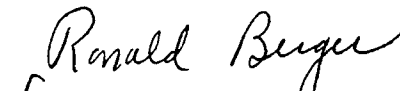
¹In Ranor, the agency had first advised the protester during discussions that its initial price was too low, based on an apparently defective government estimate, and then selected another offeror's proposal for award, even though its price was much lower than the estimate (and was, in fact, approximately the same as that initially proposed by the protester).

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concern did not accurately reflect a comparison with the agency's price estimates, "which reasonably caused the protester to raise its [best and final offer] price."

AICI made precisely the same argument, using the identical words quoted above, in its initial protest. In deciding the protest, our Office considered and rejected AICI's argument that the facts in this case were almost identical to those in Ranor. As we explained in considerable detail in our decision, the errors in the discussion questions did not prejudice AICI. In reaching that conclusion, we reviewed, and discussed in our decision, the limited net impact of the erroneous guidance provided to AICI, the similarly erroneous guidance provided to the joint venture, and the indications that the erroneous guidance may have affected the joint venture's pricing more than AICI's. On the basis of our review of the entire record, we concluded that "the errors had no impact on the ranking of the proposals and therefore did not prejudice AICI." The absence of prejudice plainly distinguishes the facts of this protest from those leading to the contrary result in Ranor. AICI's mere repetition of its contrary view does not provide a basis for reconsideration. See R/E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

The request for reconsideration is denied.


Robert P. Murphy
General Counsel