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**Comptroller General  
of the United States**

**United States Government Accountability Office  
Washington, DC 20548**

## Decision

**Matter of:** Aljucar, Anvil-Incus & Company--Reconsideration

**File:** B-408936.2

**Date:** March 20, 2014

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Rudy Sutherland for the protester.

Paul E. Jordan, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Request for reconsideration, asserting failure to consider various legal authorities, including executive guidance, statute, and Federal Acquisition Regulation, is denied where arguments were not raised in original protest, and thus do not provide a basis for reconsideration.

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### DECISION

Aljucar, Anvil-Incus & Company (AAI), of Washington, DC, requests reconsideration of our decision in Aljucar, Anvil-Incus & Co., B-408936.2, Jan. 2, 2014, 2014 CPD ¶ 19, in which we denied its protest of the terms of the General Services Administration's (GSA) request for proposals (RFP) No. GS00Q-13-DR-0001, for the award of multiple contracts supporting the agency's One Acquisition Solution for Integrated Services (OASIS) program.

We deny the request for reconsideration.

### BACKGROUND

The OASIS procurement was designed by GSA to establish multiple indefinite-delivery, indefinite-quantity contracts, under which fixed-price, cost-reimbursement, time-and-materials, and labor-hour task orders could be issued for a range of complex professional services, including program management, management consulting, logistics, engineering, scientific, and financial services. GSA conducted market research to determine how to structure the procurement, and following its market research, issued two solicitations for OASIS contracts, the unrestricted RFP here, and another RFP (No. GS00Q-13-DR-0002) set aside for small business concerns.

AAI challenged only the terms of the unrestricted RFP, specifically, the RFP's provision that joint venture offerors must have proven experience and performance under an existing contract team arrangement. RFP at 104. In this regard, the RFP informed offerors that the joint venture itself--and not the individual business entities forming the joint venture--must satisfy the RFP's relevant experience requirement. Id. at 104-105.

Prior to the closing time for submission of proposals, AAI filed an agency-level protest with GSA. Following GSA's denial of AAI's agency-level protest, AAI filed a protest with our Office.

In its protest to our Office, AAI asserted that the RFP unduly restricted competition because joint venture offerors were limited to consideration of experience for the joint venture itself; according to the protester, it was improper for the RFP not to allow newly-formed joint venture offerors to satisfy the experience requirements through the experience of the individual members of the joint venture. As explained by the agency, however, its market research led it to conclude that newly-formed joint ventures (that is, joint ventures without a proven track record or experience) could pose performance risks, particularly under a solicitation, as here, that involves complex, high-dollar service requirements. Based on the record, we denied AAI's protest, finding that GSA acted within its discretion in restricting its consideration of joint venture offerors' experience to that of the joint venture itself. Although AAI disagreed with the agency's judgment in this regard, we found that its disagreement did not show that the RFP's experience requirement for joint ventures was unduly restrictive of competition. AAI requests reconsideration of our decision in this regard.

## DISCUSSION

To prevail on a request for reconsideration, the requesting party must either show that our decision contains an error of fact or law, or present information not previously considered that warrants the decision's reversal or modification. 4 C.F.R. § 21.14(a) (2013); Waterfront Techs., Inc.--Recon., B-403638.4, June 29, 2011, 2011 CPD ¶ 126 at 3. A request for reconsideration that reiterates arguments made previously and merely expresses disagreement with the prior decision does not meet the standard for granting reconsideration. Gordon R.A. Fishman--Recon., B-257634.4, Sept. 9, 1996, 96-2 CPD ¶ 110 at 2-3. Here, we conclude that the standard for reconsideration has not been satisfied.

As an initial matter, AAI claims that joint ventures, because they are expensive and time consuming to form, maintain, and operate, generally are not formed idly or as "infinitely standing entities." Request for Reconsideration at 2. Rather, according to AAI, they are formed for purposes of a specifically defined and imminent contract pursuit. Id. Thus, AAI asserts that it was not reasonable or practical for GSA to

expect that joint ventures formed for federal contract pursuit would have any past performance experience outside that of its individual venturers. Id.

The impact on newly-formed joint ventures is not dispositive of whether a provision is unduly restrictive. The fact that a requirement may be burdensome or even impossible for a particular firm to meet does not make it objectionable, if the requirement properly reflects the agency's needs. JBG/Naylor Station I, LLC, B-402807.2, Aug. 16, 2010, 2010 CPD ¶ 194 at 4. In this regard, as noted in our decision, the determination of a contracting agency's needs, including the selection of evaluation criteria, is primarily within the agency's discretion and we will not object to the use of particular evaluation criteria so long as they reasonably relate to the agency's needs in choosing a contractor that will best serve the government's interests. Aljucar, Anvil-Incus & Co., supra, at 3; SML Innovations, B-402667.2, Oct. 28, 2010, 2010 CPD ¶ 254 at 2. The RFP's relevant experience requirement reflected GSA's reasonable interest in the performance of the joint venture as an established and experienced team and did not unduly restrict competition. Aljucar, Anvil-Incus & Co., supra, at 6. Accordingly, the provision's potential to adversely impact AAI and other offerors is not a basis for reconsideration.

In addition, AAI asserts that our Office (and GSA) failed to follow or consider various legal authorities, and that these legal errors amounted to an abuse of discretion. Request for Reconsideration at 2. Specifically, AAI for the first time identifies Office of Management and Budget guidance as found in its "Best Practices for Collecting and Using Current and Past Performance Information"; Public Law 111-240, Small Business Jobs Act of 2010, § 1312 (amending the Small Business Act, 15 U.S.C. § 644(q)(1)); and Federal Acquisition Regulation § 15.305(a)(2)(iii). Request for Reconsideration at 3.

To the extent these citations of authority might bolster AAI's protest arguments, they should have been provided in the initial protest. Our Office considers new information only when it was not available to the protester when the initial protest was filed. Allstate Van & Storage, Inc.--Recon., B-270744.2, Aug. 20, 1996, 96-2 CPD ¶ 72 at 2. A party's failure to make all arguments or submit all information available during the course of the initial protest undermines the goals of our bid protest forum--to produce fair and equitable decisions based on consideration of both parties' arguments on a fully developed record--and cannot justify reconsideration of our prior decision. The Dep't of the Army-Recon., B-237742.2, June 11, 1990, 90-1 CPD ¶ 546 at 4. Since AAI knew, or should have known, about these authorities at the time of its initial protest, it may not rely on them now as a basis for reconsideration.

The request for reconsideration is denied.

Susan A. Poling  
General Counsel