



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: King-Fisher Company--Request for Reconsideration

File: B-236687.3

Date: June 20, 1990

Emerson B. Fisher, for the protester.
Linda S. Lebowitz, Esq., and Michael R. Golden, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Request for reconsideration of initial decision is denied
where protester fails to specify any factual or legal basis
warranting reversal or modification of initial decision.

DECISION

King-Fisher Company requests that we reconsider our decision
in King-Fisher Co., B-236687.2, Feb. 12, 1990, 90-1 CPD
¶ 177, in which we denied King-Fisher's protest challenging
the acceptability of Repco, Incorporated's bid under
invitation for bids (IFB) No. N62922-89-B-6577, issued by
the Department of the Navy for a radio fire alarm system for
the Subic Bay Naval Base, Republic of the Philippines.

We deny the request for reconsideration.

Eight bids were received at bid opening on September 15. By
letter dated September 20, King-Fisher, the third low
bidder, filed an agency-level protest, alleging that neither
Seaboard Electronics Company, the apparent low bidder, nor
Repco, the second low bidder, could manufacture equipment
meeting the specification requirements. The agency rejected
Seaboard's bid as nonresponsive. By letter dated
September 27 to the agency, Repco, which did not take any
exceptions in its bid to the specifications, confirmed that
the equipment which it intended to supply would meet or
exceed the specification requirements. On September 28, the
agency awarded the contract to Repco.

In its protest, King-Fisher challenged the agency's
determination that Repco would be able to perform the
contract by supplying equipment conforming to the
specifications. We held that since Repco did not take any
exception to the specifications in its bid, its bid was

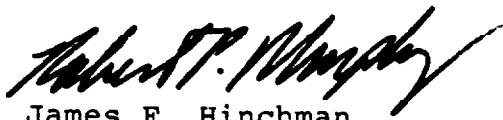
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responsive, and that the challenge to Repco's ability to perform in accordance with the specifications involved Repco's responsibility. TLC Sys., B-231969, Sept. 13, 1988, 88-2 CPD ¶ 238. We pointed out that an agency's affirmative determination of responsibility would not be reviewed by our Office absent a showing of possible fraud or bad faith on the part of procurement officials, or that definitive responsibility criteria in the solicitation were misapplied. Bid Protest Regulations, 4 C.F.R. § 21.3(m)(5) (1990); TLC Sys., B-231969, supra. In this case, there was no evidence in the record to indicate fraud or bad faith by the procurement officials in determining Repco to be a responsible bidder that could supply the required equipment. We further stated that under the solicitation, Repco was not required to submit evidence of conformance of its equipment to the specifications until 30 days after notice of award or award of the contract; therefore, this requirement did not establish a definitive responsibility criterion as a precondition to the award to Repco. King-Fisher Co., B-205003, June 16, 1982, 82-1 CPD ¶ 592.

On reconsideration, King-Fisher, referencing paragraph 6 of its comments to the agency report, alleges that we failed to address an argument concerning an ambiguity in Repco's bid. Under our Bid Protest Regulations, a protester may request reconsideration of our prior decision, stating the factual and legal grounds upon which reversal or modification is deemed warranted and specifying any errors of law made or information not previously considered. 4 C.F.R. § 21.12(a); R. C. Hendrick & Son, Inc.--Request for Recon., B-236497.2, Oct. 26, 1989, 89-2 CPD ¶ 389.

However, in the referenced paragraph, we saw and continue to see nothing that reasonably can be read as a specific allegation that Repco's bid was ambiguous. King-Fisher merely stated that it had reviewed Repco's bid and believed that Repco would not supply equipment conforming to the specifications. No indication of how or why the bid might be ambiguous was presented. Thus, we viewed this statement simply as support of King-Fisher's allegation that Repco would not furnish conforming items. As discussed above, we fully addressed this allegation in our initial decision.

Because King-Fisher basically reiterates its earlier argument, and has not specified any factual or legal basis warranting reversal or modification of our initial decision, the request for reconsideration is denied.


James F. Hinchman
General Counsel