

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

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FILE: B-211934.3**DATE:** August 26, 1983**MATTER OF:** Merchants Rent-A-Car, Inc.--Reconsideration**DIGEST:**

1. GAO affirms on reconsideration its prior decision dismissing protest despite protester's allegation that its protest was wrongly decided as an issue of responsibility rather than an issue of responsiveness.
2. Where the protester fails to demonstrate factual or legal grounds to warrant reversal of previous decision, GAO again dismisses protest as not for consideration.

Merchants Rent-A-Car, Inc. (Merchants), requests reconsideration of our decision in Merchants Rent-A-Car, Inc., B-211934, June 15, 1983, 83-1 CPD 659. Our Office dismissed Merchants' protest against an award to Roan Corporation (Roan) under solicitation No. N62474-83-4394, issued by the Naval Facilities Engineering Command, because we viewed the protest as involving an affirmative determination of responsibility which we do not review except in circumstances not applicable here.

Merchants disagrees with our decision and contends that our characterization of Merchants' protest as involving an issue of responsibility is in error. Merchants contends that the issue was one of responsiveness.

We disagree and affirm our previous decision.

Merchants' contention is not that Roan did not promise to perform in conformity to its bid submitted, which is a matter of responsiveness. Rather, Merchants contends that Roan is unable to deliver the exact vehicles under the specification by the required date, which goes to the issue of responsibility.

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Our analysis in Merchants was in accord with prior decisions of this Office. Responsiveness of a bid, that is, whether the bidder has made an unconditional promise to perform in accordance with the terms of the solicitation, is determined at the time of bid opening and is not to be confused with the ability to carry out that promise, which is a matter of responsibility. 38 Comp. Gen. 819 (1959). See also Parkway Fabricators, B-211931, June 8, 1983, 83-1 CPD 630. Accordingly, the requirement is that a bid must be responsive when opened, and Merchant does not dispute that this is the case here.

Under the facts presented, we find that Merchants has failed to demonstrate in its request any factual or legal grounds that warrant a reversal or modification of our prior decision. See 4 C.F.R. § 21.9(a) (1983). If the protester fails to specify any errors of law made or information not previously considered which shows that the earlier decision was erroneous, then we will deny the request for reconsideration. Exact Level & Tool Mfg. Company, Inc.-Request for Reconsideration, B-210946.2, May 31, 1983.

Since Merchants' request for reconsideration is essentially a reiteration of its original protest, we deny the request and once again dismiss the protest.

Harry R. Van Cleve
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Acting General Counsel