

GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD

PROTEST OF:

O'DONNELL CONSTRUCTION COMPANY)	
)	
)	CAB No. P-340
)	(Reconsideration)
Under IFB No. HFA/BS-CW/92-1)	

For the Protestor: Arnold J. O'Donnell, Vice President. For the Government: Nancy Hapeman and Anne Cauman, Assistants Corporation Counsel.

Opinion by Administrative Judge Zoe Bush, with Administrative Judge Terry Hart Lee concurring.^{1/}

**OPINION AND ORDER
ON MOTION FOR RECONSIDERATION**

O'Donnell Construction Co., (O'Donnell, Protestor) has requested that the Board reconsider its decision dismissing the above-captioned protest, with prejudice, because O'Donnell asserts that the decision is based on an error of fact.^{2/} In its motion O'Donnell asserts:

The Board concluded that O'Donnell lacked standing 'to bring this protest because it would not be in line for award even if its protest were upheld.' This conclusion by the Board is factually incorrect. The bid submitted by Aditron was not a separate bid for Section B, but one bid for both Section A and Section B. Also, the bid submitted by Aditron was late and therefor nonresponsive. The bid submitted by C&F Construction was one bid for Section A, Section B, and Section C. C&F did not submit a bid for

^{1/}At the time this matter came before the Board, three judges were assigned to the panel. This decision is rendered by a majority vote of the three judges assigned. Rule 101.5, 36 DCR 2686 (April 21, 1989). See Federal Trade Commission v. Flotill Products, Inc., 389 U.S. 179 (1967).

^{2/}Board Rule 117.1(d) provides: A party to an appeal or protest may by motion request the Board to reconsider its decision or order for the reasons stated below:

* * *

- (d) If the decision contains errors of fact or law except that parties shall not present arguments substantially identical to those already considered and rejected by the Board.

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This assertion is indistinguishable from the original argument underlying the protest submitted by O'Donnell.

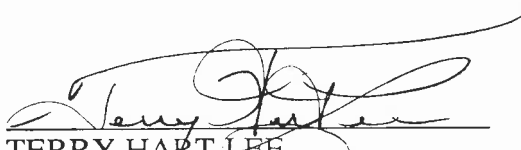
The Board's rules require, and the Board has consistently held, that on reconsideration parties shall not merely repeat arguments already considered and rejected by the Board. Here, O'Donnell has failed to present any evidence or authority not previously considered by the Board. Further, Exhibit C to the government's motion to dismiss submitted on October 30, 1992, clearly shows that Protestor was not low bidder on Section B and was not in line for award. Therefore, the request for reconsideration must be **DENIED**. Bio-Analytical Laboratories, Inc. - Reconsideration, CAB No. P-373, 6 P.D. 5235 (July 6, 1993); Modern Electric, Inc. - Reconsideration, P-341. 6 P.D. 5232 (June 28, 1993); Macton Construction Inc. - Reconsideration, CAB No. P-203, 39 DCR 4424 (1992).

So **ORDERED**.

DATE: July 19, 1993


ZOE BUSH
Chief Administrative Judge

CONCUR:


TERRY HART LEE
Administrative Judge