

GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD

PROTEST OF:

| | | |
|--------------------------------------|---|-------------------|
| MODERN ELECTRIC, INC. |) | |
| |) | CAB No. P-341 |
| |) | (Reconsideration) |
| Under Contract No. 92-0128-AA-4-0-CC |) | |

For the Protestor: David R. Ashburn, President. For the Government: Amy R. Schmidt, Assistant Corporation Counsel.

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

OPINION AND ORDER ON RECONSIDERATION

By Opinion dated April 5, 1993, the Board denied the above-captioned protest, finding that the District of Columbia had properly waived minor informalities or irregularities in the bid documents of the successful bidder. Modern Electric, Inc., CAB No. P-341, 5 P.D. 5103 (1993). Thereafter, on April 13, 1993, Protestor, Modern Electric, Inc. (Modern), requested reconsideration of the Board's opinion because it had not received a copy of the agency report or a response to its request to review the bid documents by the Freedom of Information Officer. By Order dated April 16, 1993, the Board found that Modern's request for reconsideration was timely filed and directed: (1) the District to provide a copy of the agency report, including the bid documents, to the Protestor within seven calendar days of receipt of the Board's Order; (2) the Protestor to submit a request for reconsideration within 15 days of receipt of the Board's Order; and (3) the Protestor's attention to Board Rule 117, which sets forth the requirements for requests for reconsideration.

By letter dated May 5, 1993, the Protestor made a submission to the Board indicating that it had received a copy of the agency report and the successful bidder's bid documents. The sole challenge in the Protestor's letter is that the successful bidder's bid bond was not signed. There is no indication on the letter that Protestor provided a copy of the letter to the District of Columbia. Therefore the Board will not require the District to respond to the letter.

^{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).


The Board's rules allow that a petition for reconsideration may properly be brought where a 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. Board Rule 117.1(d), 36 DCR 2696. Here, the sole challenge raised by the Protestor was addressed in the Board's prior decision as follows: ". . . Further, we have held previously that failure to sign a bid bond prior to bid opening is a minor informality that can be waived where the unsigned bond is submitted with a signed bid. Norair Engineering Corp., CAB No. P-302, 5 P.D. 2078 (October 21, 1992)." Modern Electric, supra, at 5104.

Protestor's letter of May 5, 1993, does not reference the Board's decision, and it appears that Protestor does not realize that the Board's prior decision addressed the issue of the unsigned bid bond. Protestor does argue that failure to sign a bid bond is a major irregularity. However, mere disagreement with the determinations set forth in the Board's decision is not sufficient cause to grant reconsideration. Shane Meat Company, CAB Nos. P-339, P-347, P-349, Reconsideration, 5 P.D. 5139 (April 20, 1993); Macton Construction, Inc., CAB No. P-203, Reconsideration, 39 DCR 4424 (February 14, 1992).

Wherefore, based on the foregoing, the request for reconsideration is hereby **DENIED**.


So **ORDERED**.

DATE: June 28, 1993



ZOE BUSH
Chief Administrative Judge

CONCUR:



TERRY HART LEE
Administrative Judge