



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Ralph G. Moore & Associates--Reconsideration

File: B-270686.3

Date: June 5, 1996

Janice Davis, Esq., McKenna & Cuneo, for the protester.

Tania L. Calhoun, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration is denied where the protester has not shown that prior decision contains either errors of fact or law, or presented information not previously considered that warrants reversal or modification of decision.

DECISION

Ralph G. Moore & Associates (RGMA) requests reconsideration of our decision in Ralph G. Moore & Assocs., B-270686; B-270686.2, Feb. 28, 1996, 96-1 CPD ¶ 118, denying its protest of the award of a contract to Information Support SVRS (ISS) under request for proposals (RFP) No. DE-RP02-95CH10619, issued by the Department of Energy for federal information processing support services for its Chicago Operations Office.

We deny the request for reconsideration.

In its protest, filed December 6, 1995, RGMA alleged that the agency failed to conduct a reasonable cost realism analysis. The only specific allegation raised in this regard concerned the evaluation of its own cost proposal.¹ On December 28, pursuant to a protective order, counsel for the protester was given the source evaluation panel's final report, which included an extensive analysis of both offerors' cost proposals. The agency report, along with the remaining relevant documents, was provided on January 19, 1996. RGMA requested and was granted a 3-day extension of time in which to file its comments, and did so on February 5. In those comments, for the first time, RGMA presented specific and detailed allegations concerning the cost realism analysis of ISS' proposal.

¹RGMA reiterated its general allegation in a supplemental protest filed December 18.

As we stated in our decision, we declined to consider these issues because they were untimely raised. Under our Bid Protest Regulations, protests based on other than solicitation improprieties must be filed within 14 days of when the protester knew or should have known their bases. 4 C.F.R. § 21.2(a)(2) (1996). RGMA had been provided at least some of the information that should have put it on notice of these specific and detailed allegations on December 28, but did not raise them until its comments were filed 39 days later. Litton Sys., Inc., Data Sys. Div., B-262099, Oct. 11, 1995, 95-2 CPD ¶ 215.

In its request for reconsideration, RGMA argues that its initial protest allegation encompassed both proposals, and asserts that it did not need to file a supplemental protest to add the cost realism analysis of ISS' proposal as a new protest ground.

The timeliness of specific bases of protest raised after the filing of a timely initial protest depends upon the relationship the later-raised bases bear to the initial protest. See Kappa Sys., Inc., 56 Comp. Gen. 675 (1977), 77-1 CPD ¶ 412. Where the later bases present new and independent grounds of protest, they must independently satisfy our timeliness requirements. Curtis Center Ltd. Partnership--Recon., B-257863.3, Mar. 20, 1995, 95-1 CPD ¶ 147; GE Gov't Servs., B-235101, Aug. 11, 1989, 89-2 CPD ¶ 128. Where the later contentions merely provide additional support for an earlier, timely raised objection, we consider these additional arguments. Prospect Assocs., Inc., B-260696, July 7, 1995, 95-2 CPD ¶ 53.

In cases where we have found that later-raised contentions provide additional support to an initial protest ground and are, thus, timely, the initial protest ground has been narrowly drawn. See, e.g., Litton Sys., Inc., Data Sys. Div., *supra* (and cases cited therein). Because the specificity of these initial protest allegations allowed the contracting agency to provide the protester and our Office with a detailed and informed response, the agency was not required to expend significant additional time and effort to address the later-raised contentions. *Id.*

In arguing that its initial protest letter raised a challenge to the cost realism analysis of both offers, the protester points to the title of the relevant portion of its protest--"DOE-CH Failed to Conduct a Reasonable Cost Realism Analysis"--and to its quotation of a passage from a prior decision by our Office setting out the standards for a contracting agency's cost realism analysis.² Based on these statements in its protest, RGMA asserts that its allegation that the agency failed to perform an adequate cost realism analysis "pertained to both RGMA's and ISS' submissions."

²The quoted sentence, from S-Cubed, A Div. of Maxwell Laboratories, Inc., B-242871, June 17, 1991, 91-1 CPD ¶ 571, is as follows: "[t]he contracting agency must protect itself against a buy-in by analyzing each offeror's proposed costs in terms of their cost realism and evaluating cost on the basis of what appears to be realistic."

On its face, this interpretation of its protest simply is not reasonable. The cited portions are broad in nature and the protest otherwise lacks any reference whatsoever to the awardee's proposal. RGMA's general challenge--i.e., "DOE-CH Failed to Conduct a Reasonable Cost Realism Analysis"--simply cannot be read to encompass a challenge to the awardee's proposal; in fact, this portion of its protest consists principally of a recitation of the general standards for conducting a cost realism analysis, and, even with respect to RGMA's own proposal, contains only one reference to a specific area in which the agency allegedly acted improperly.³

Because RGMA's initial protest ground--aside from the specifically identified issue as to its own proposal--was so broad, the agency was unable to respond save for its assertion that it conducted an appropriate cost realism analysis. As a result, any agency response to these later-raised contentions would constitute a de facto supplemental agency report. Where, as here, a later-raised protest allegation requires a contracting agency to respond to it as though it were a supplemental protest, this later-raised allegation must independently satisfy our timeliness requirements. Id.; see also Dial Page, Inc., B-256210, May 16, 1994, 94-1 CPD ¶ 311.

The record shows that RGMA possessed the documentation necessary to raise the allegations at issue no later than December 28, when it received the cost proposal analysis. Since it did not raise these allegations within 14 days of that date, we properly considered them to be untimely. 4 C.F.R. § 21.2(a)(2); Global Plus, B-257431.9, Dec. 14, 1994, 95-1 CPD ¶ 77. Moreover, to the extent RGMA now argues that some of its allegations were premised upon information provided in the agency's January 19 report, RGMA's comments were not filed within 14 days of its receipt of that report. An extension of time for filing comments on an agency report does not waive the timeliness requirements for filing bid protests. Keci Corp.--Recon., B-255193.2, May 25, 1994, 94-1 CPD ¶ 323.

³RGMA stated: "For example, on information and belief, the DOE-CH improperly evaluated RGMA's proposed estimated costs by failing to accord due credit to the cost savings DOE-CH would experience due to the fact that RGMA, as the incumbent, would not incur learning curve costs or costs related to transitioning into the contract."

Under our Bid Protest Regulations, to obtain reconsideration, the requesting party must show that our prior decision contains either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.14(a); R.E. Scherrer, Inc.-Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274. RGMA's reconsideration request does not meet this standard.

The request for reconsideration is denied.

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