

Proc I

DECISION



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

10,575

FILE: B-194043

DATE: June 26, 1979

MATTER OF: Ordnance Research, Inc. ---  
Reconsideration

DLG 01568

[Protest of Army's Negotiation Evaluation Process]  
DIGEST: AGC 00020

Prior decision dismissing protest as untimely is affirmed where protester has not shown that decision was based on errors of fact or law.

Ordnance Research, Inc., requests reconsideration of our decision in the matter of Ordnance Research, Inc., B-194043, May 16, 1979, 79-1 CPD 359, wherein we concluded that our Office would not consider the merits of the Ordnance protest which alleged errors in the Department of the Army's negotiation evaluation process under Request for Quotations No. DAAK10-78-Q-0153. The protest was dismissed because it was not filed in a timely manner as required by our Bid Protest Procedures. 4 C.F.R. § 20.2(b) (1978).

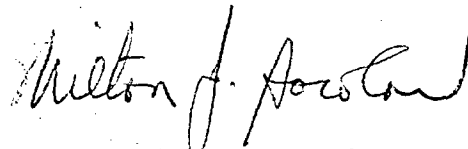
We concluded that while a timely oral protest may have been initially lodged with the agency, Ordnance's subsequent failure to reassert its protest or object when advised for the first time of the specific bases for protest appeared to resolve the prior oral agency protest. In those circumstances, we held that the protester should have known that the agency considered the matter resolved and should not have refrained from reasserting any objection it may have had at that time. Since Ordnance's GAO protest was not filed in our Office within 10 working days after agency protest resolution, it was untimely.

In response to the Ordnance argument that the Army did not request written confirmation of the oral protest in accordance with Defense Acquisition Regulation 2-407.8 (a)(1), we noted that this requirement is only applicable when the agency cannot otherwise resolve the protest. Because it was reasonable for the Army to believe that the oral protest was resolved, the agency was not required to request written confirmation.

Ordnance's protest was initially resolved by the Army. No protest was filed in the GAO.

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Although Ordinance, in its request for reconsideration, submits that our dismissal was "arbitrary, capricious and without basis in fact," the request merely iterates arguments formerly advanced. Having submitted no factual or legal grounds not previously considered, the prior decision is affirmed. California Computer Products, Inc. --Reconsideration, B-193611, May 15, 1979, 79-1 CPD\_\_\_.



For The Comptroller General  
of the United States