



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Astro-Med, Inc.--Request for Reconsideration
File: B-232131.2
Date: December 1, 1988

DIGEST

General Accounting Office will not hear on reconsideration an argument which the protester could have raised, but did not, in its comments to the agency report on the initial protest.

DECISION

Astro-Med, Inc. requests reconsideration of our decision, Astro-Med, Inc., B-232131, Nov. 10, 1988, 88-2 CPD ¶ , in which we denied Astro-Med's protest of the Air Force's award of a contract to Western Graphtec under request for proposals (RFP) No. F42650-88-R-0201, for 16 oscillograph strip chart recorders. We deny the request for reconsideration.

In its original protest, Astro-Med claimed that the Western Graphtec model, the Mark 10, did not meet several design requirements of the RFP. We held that most of the alleged deficiencies resulted from Astro-Med's overly restrictive reading of the specifications and that the Mark 10 met the specified requirements as reasonably interpreted by the Air Force. Astro-Med cited the principal deficiency of the Mark 10 as failure to meet the channel range requirement that "the waveform . . . have the ability to exceed both edges of the grid by 4 [millimeters] to facilitate accurate baseline positioning and over range analysis." Astro-Med argued that the waveform (i.e., the line printed on the chart as the data are recorded) produced by the Mark 10 lacks the ability to exceed both edges of the grid (the graph on the chart paper), and instead cuts off the waveform at the boundary edges of the grid. The protester claimed that the deficiency precludes over range analysis (i.e., analysis of the data that should print beyond the edges). However, the Air Force reported that the Mark 10 has seven interchangeable

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grid patterns, one of which enables the waveform to exceed the edges of the gridline. Astro-Med did not dispute this, and we thus held that the Mark 10 met the requirement.

In its request for reconsideration, Astro-Med reasserts that the Mark 10 does not meet the channel range requirement, arguing that the only way the Mark 10 could give the appearance of over range capability would be to provide a grid pattern that was less than 40 millimeters wide. As the specification requires a 40 millimeter channel with an additional plus-and minus-4 millimeters of over range, Astro-Med argues that the specification cannot be met by the stated grid pattern.

Our Bid Protest Regulations are designed to give protesters and interested parties a fair opportunity to present their cases with the least disruption possible to the orderly and expeditious process of government procurements. Dynalectron Corp., B-219664, 65 Comp. Gen. 93 (1985), 85-2 CPD ¶ 634. Hence, we do not permit a piecemeal presentation of evidence, information, or analysis. Inter-Continental Equipment, Inc.--Reconsideration, B-230266.3, Apr. 6, 1988, 88-1 CPD ¶ 343. The information which forms the basis of the protester's argument, the assertion that the Mark 10 had a grid pattern with over range capability, was provided to the protester in the agency report. That Astro-Med was or should have been aware of this information is readily demonstrated by Astro-Med's reference to specific portions of the report relevant to its argument. Hence, if the protester disagreed with that assertion, it had an opportunity to do so in its comments. Where a party submits in its request for reconsideration an argument that it could have presented in its comments to the agency report, but failed to do so, the argument is not a timely basis for reconsideration, and will not be heard. The Department of the Navy; Yanke Container, Inc.--Request for Reconsideration, B-220327.2, et al., Apr. 23, 1986, 86-1 CPD ¶ 395. Astro-Med's argument thus does not warrant reconsideration of our decision.

We point out, furthermore, that even if the protester were correct in its contention, our Office will not sustain a protest based on a change or relaxation of a requirement unless there is evidence of resulting prejudice to the protester, i.e., that the protester would have altered its proposal to its competitive advantage had it been given the opportunity to respond to the altered requirements. DataVault Corp., B-223937, et al., Nov. 20, 1986, 86-2 CPD ¶ 594. Astro-Med has never alleged that it would have offered another model, lowered its price, or altered its

proposal in any way in response to any alleged relaxation of the channel range requirement for Western Graphtec, nor does the record suggest any such possibility.

Astro-Med has requested that a conference be held on this matter. Our Regulations provide that such a request must be made at the earliest possible time in the protest proceeding. 4 C.F.R. § 21.5(a) (1988). Astro-Med never requested a conference during our consideration of its original protest. In any case, such a conference would serve no useful purpose under our holding here. E.L. Hamm & Associates, Inc.--Reconsideration, B-231444.2, Aug. 19, 1988, 88-2 CPD ¶ 160.

The request for reconsideration is denied.

for *John F. Mitchell*
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General Counsel