



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Dictaphone Corporation--Reconsideration

**File:** B-244691.3

**Date:** January 5, 1993

Grace Bateman, Esq., Seyfarth, Shaw, Fairweather & Geraldson, for the requester.  
Daniel I. Gordon, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Request for reconsideration is denied where requesting party for the most part merely expresses disagreement with General Accounting Office's finding of fact; the only new element in the request for reconsideration fails to support the requester's argument and, in any event, could have been raised during consideration of the initial protest.

### DECISION

Dictaphone Corporation requests reconsideration of our decision in Dictaphone Corp., B-244691.2, Nov. 25, 1992, 92-2 CPD ¶     , in which we denied its protest against the Department of the Navy's proposed acquisition, pursuant to the Economy Act, 31 U.S.C. § 1535 (1988), of a digital dictation system through an Air Force contract with Sudbury Systems, Inc.

We deny the request for reconsideration because the request provides no basis for reconsidering our prior decision.

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. § 21.12(a) (1992). Neither repetition of arguments made during our consideration of the original protest nor mere disagreement with our decision meets this standard. R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

Here, Dictaphone for the most part merely disputes our finding that nothing in the record would support an allegation that the Navy had advised Dictaphone that only FSS contract price quotations were permissible, and that, indeed, Dictaphone never explicitly made such an allegation. The evidence to the contrary to which Dictaphone points in its request for reconsideration was previously considered and found insubstantial; Dictaphone's embellished repetition of its position does not justify reconsideration of our decision.

The only new element raised in the request for reconsideration is Dictaphone's response to our pointing out in the decision that Dictaphone was not precluded from quoting, through its Federal Supply Schedule (FSS), a price lower than its standard FSS price. In its request for reconsideration, Dictaphone admits that it was free to offer a lower price within the context of its FSS contract, but contends that business considerations arising from the effect of the FSS contract's price reduction clause "normally" dissuade businesses from doing so.

This assertion provides no basis for reconsideration. First, it effectively concedes that the company was free, notwithstanding its business considerations, to offer a lower price than it did, even if it were assumed, arguendo, that the Navy prohibited Dictaphone from offering a price outside the framework of the FSS contract.

Second, Dictaphone's assertion fails to explain how offering what Dictaphone calls an "open market" price would not trigger the price reduction clause. If the clause were triggered by an open market price lower than its standard FSS price, the same business considerations would presumably have constrained Dictaphone from offering a lower "open market" price--thus negating Dictaphone's entire protest ground.

Finally, the price reduction clause issue was plainly known to Dictaphone at the time the protest was being considered, and it is directly relevant to Dictaphone's contention that it was not free to offer a lower price than its standard FSS price; nonetheless, Dictaphone did not raise this issue during the course of the protest. Failure to make all arguments or submit all information available during the course of a protest undermines the goals of our bid protest forum--to produce fair and equitable decisions based on consideration of the parties' arguments on a fully developed

record--and cannot justify reconsideration of our prior decision. Department of the Army--Recon., B-237742.2, June 11, 1990, 90-1 CPD ¶ 546.

The request for reconsideration is denied.

  
James F. Hinchman  
General Counsel