



Comptroller General  
of the United States

557149

Washington, D.C. 20548

## Decision

**Matter of:** C&M Data Management Corporation--Reconsideration

**File:** B-253245.3

**Date:** September 16, 1993

Carl Payne Tobey, Jr., Esq., Gardner & Ferguson, Inc., for the protester,  
David S. Cohen, Esq., Cohen & White, for Harry Kahn Associates, Inc., an interested party.  
Michael J. Cunningham, Jr., Esq., Department of the Navy, for the agency.  
Paul E. Jordan, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Request for reconsideration of protest against agency decision to reopen negotiations, instead of reissuing solicitation, is denied where protester essentially disagrees with prior decision and reiterates arguments raised initially.

### DECISION

C&M Data Management Corporation requests reconsideration of our dismissal of its protest under amended request for proposals (RFP) No. N00140-92-R-AC56, issued by the Department of the Navy for development of aeronautical/technical manuals. C&M had protested that the Navy should have reissued the RFP instead of reopening negotiations only with those offerors in the competitive range.

On April 28, 1993, a competing offeror protested to our Office that the agency had incorrectly determined that the proposed awardee met certain experience requirements under the RFP. On May 21, 1993, we dismissed that protest as academic because the Navy had taken corrective action by amending the RFP. The amendments effectively relaxed the corporate experience requirements in the evaluation criteria and decreased the schedule quantities. Subsequently, the Navy advised C&M that its proposal had been eliminated from

the competitive range. This advice was transmitted by telefacsimile to C&M on July 7, 1993. C&M filed its protest with our Office on July 30, more than 10 working days later. C&M argued that the agency should have furnished it with the RFP amendment and reopened the competition to allow C&M and other offerors to participate.

We dismissed C&M's protest as untimely because it was filed more than 10 working days after the protester knew, or should have known, of the basis for its protest. 4 C.F.R. § 21.2(a)(2) (1993). See Instruments For Indus., Inc., B-250693, Feb. 16, 1993, 93-1 CPD ¶ 143. While C&M argues that it was unaware of the substance of the RFP amendments until July 23, we found the agency's notice of July 7, sufficient to place C&M on notice of the basis for its protest.

In its request for reconsideration, C&M reiterates its argument that the changes to the RFP are so significant that resolicitation was required to allow all potential offerors an opportunity to participate. However, as we found in our prior decision, C&M was not an interested party to protest on behalf of other potential offerors (such as less experienced offerors who might have forgone participating based on the original experience requirement in the evaluation criteria). 4 C.F.R. § 21.0(a); Cajar Defense Support Co., B-239217, July 24, 1990, 90-2 CPD ¶ 74. While C&M styled its protest as a challenge to the decision to amend the RFP instead of canceling and resoliciting, the protest actually constitutes a challenge to C&M's elimination from further participation in the procurement.<sup>1</sup>

In its July 7 notice, the Navy informed C&M that although revisions to the government estimate necessitated amendment of the RFP to change the schedule quantities and the corporate experience requirement, a sufficient number of other proposals with substantially lower pricing than the protester's had been received from technically acceptable offerors. The Navy also informed C&M that the contracting officer had concluded that C&M had no reasonable chance of receiving the award. While C&M was unaware of the precise changes to the corporate experience requirement and of the specific reduction in quantities, it was on notice that, despite the changes in these requirements, its proposal had been eliminated from the competitive range primarily because of its substantially higher prices. C&M's failure to file

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<sup>1</sup>C&M does not explain how the relaxation of the experience requirement would have had any effect on its offer. Nor does it explain how knowledge of the exact change in quantities would have affected its decision not to challenge its elimination from the competitive range.

its protest within 10 days of July 7 made it untimely. A protester cannot delay filing a protest until it is certain that it can detail all of the separate grounds of protest. Rentflow, Inc., B-243215, July 5, 1991, 91-2 CPD ¶ 25.

The protester in essence repeats arguments it made previously and expresses disagreement with our decision. Under our Bid Protest Regulations, to obtain reconsideration, the requesting party must show that our prior decision may contain 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). The repetition of arguments made during our consideration of the protest and mere disagreement with our decision do not meet this standard. R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

The request for reconsideration is denied.



Ronald Berger  
Associate General Counsel