

**DECISION**

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

FILE: B-211252.2

DATE: June 28, 1983

MATTER OF: Air Tech Industries -- Reconsideration

**DIGEST:**

1. Request for reconsideration that does not challenge facts or law upon which initial decision was based, but raises new issues based on facts available to protester at the time of original protest, is considered new protest, and GAO will dismiss it for failure to independently meet timeliness requirements.
2. GAO will dismiss request for reconsideration when protester alleges it filed oral and written protests with contracting agency before closing date for receipt of initial proposals, but agency has no record of protests and protester has not submitted additional information concerning them within 5 days after GAO's request for such information.

Air Tech Industries ~~requests~~ reconsideration of our decision in Air Tech Industries, B-211252, April 12, 1982, 83-1 CPD 389, in which we dismissed as untimely a protest alleging that the specifications in solicitation No. N00189-83-R-3078, issued by the U.S. Naval Supply Center, Norfolk, Virginia, were ambiguous. As its basis for reconsideration, Air Tech alleges the Navy failed to provide copies of the solicitation so that it could be reviewed before the pre-proposal conference. Additionally, Air Tech contends it did protest to the Navy by telephone and telex before the March 7, 1983, closing date for receipt of initial proposals, so that its March 9 protest to our Office should be considered timely. We dismiss the request for reconsideration.

While Air Tech's allegation with regard to the Navy's failure to provide advance copies of the solicitation is new, it also is untimely, since this issue was not raised until its April 21, 1983, request for reconsideration.

026023

Any newly-raised ground of protest must independently satisfy the timeliness requirements of our Bid Protest Procedures, ~~4 C.F.R. § 21.2 (1983)~~; Security Assistance Forces & Equipment OHG--Reconsideration, B-209555.2, March 23, 1983, 83-1 CPD 300. Thus, any protest on this basis should have been filed within 10 days of the pre-proposal conference.

As for the purported protest to the Navy, the agency has no record of it, and Air Tech has not responded to our May 11, 1983, request for evidence of such a protest. Section 21.6 of our procedures requires any additional information that GAO requests from a protester to be submitted no later than 5 days after receipt of the request. Air Tech has failed to supply the information within the stated time.

We therefore dismiss the request for reconsideration.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel