

**DECISION**

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

**FILE:**

B-220320.2

**DATE:** May 29, 1986**MATTER OF:**

ABC Building Services--Request for  
Reconsideration

**DIGEST:**

1. Dismissal of one basis of protest is affirmed where protester, having stated one version of facts relating to timeliness of protest during initial protest, recharacterizes facts in request for reconsideration in an effort to cure untimeliness. A protester must present all relevant facts known to it during initial consideration of the protest.
2. Supplemental protest against alleged ambiguity in a solicitation is not encompassed within original protest against unfair treatment of protester occurring during proposal evaluations and unrelated to the alleged ambiguity; the supplemental basis of protest must independently meet timeliness requirements.

ABC Building Services requests reconsideration of our decision in ABC Building Services, B-220320, Jan. 27, 1986, 86-1 CPD ¶ 91. In that decision, we denied in part and dismissed in part ABC's protest against an award to W&F Building Maintenance Co., Inc., under request for proposals (RFP) No. 2-31448, issued by the National Aeronautics and Space Administration (NASA), Ames Research Center, Moffett Field, California. ABC contends that we wrongly dismissed one ground of its protest.

We affirm our prior decision dismissing one basis of ABC's protest.

ABC filed its initial protest with our Office in a mailgram on September 23, 1985. The firm alleged that NASA unfairly benefited the incumbent contractor, W&F, by delaying the negotiation process and failed to seek best and final offers from each offeror in the competitive range before eliminating ABC on the basis of its higher probable

costs. In a subsequent letter dated October 7 and filed on October 15, ABC stated that, in light of a debriefing held on September 26, the firm desired to clarify the bases for its protest. In this letter, ABC first claimed that the historical staffing levels in the solicitation were ambiguous. In responding to the administrative report, in which NASA questioned the timeliness of ABC's new basis of protest, ABC stated that it "first became aware of the discrepancy at the debriefing." Since the debriefing occurred more than 10 working days before the issue was presented to our Office, we dismissed that portion of the protest. See 4 C.F.R. § 21.2(a)(2) (1985).

ABC now asks that we reconsider our dismissal of the issue concerning an ambiguity in the historical staffing levels, contending that we erred in determining when the protester knew the basis for its protest, and, alternatively, that the issue was effectively raised in its original protest mailgram. The firm has not questioned the remainder of our decision denying the other bases of its protest.

The protester argues that in referring to the "debriefing" at which it first became aware of the alleged ambiguity, ABC intended to include not only the September 26 meeting with NASA, but also "further debriefing discussions" subsequently conducted with NASA officials by telephone. It was only during one of the later discussions on October 2, according to ABC, that it "realistically became aware" of the alleged ambiguity.

ABC's October 7 letter and its October 31 comments on the administrative report clearly use the term "debriefing" to apply solely to its September 26 meeting with NASA. In the first paragraph of the October 7 letter, the protester stated that "a debriefing was held" at Ames Research Center on September 26, and that "[s]ubsequent to debriefing," there were several telephone conversations. Similar language appears in the October 31 letter. Having stated one version of the facts to establish timeliness during its initial protest, ABC's recharacterization of those facts in an effort to cure untimeliness does not establish an error of fact or law in our prior decision. See NCR Corporation, Micrographics Systems Division--Reconsideration, B-207604.2, Sept. 28, 1982, 82-2 CPD ¶ 292. A protester must present all facts that are relevant and known to it during our consideration of the protest. We will not take into account evidence on reconsideration that a party could

have but did not furnish earlier. SAFE Export Corporation--Reconsideration, B-205501.2, Jan. 17, 1983, 83-1 CPD ¶ 40.

ABC argues in the alternative that its protest of an ambiguity in the solicitation was effectively raised in its initial September 23 mailgram. In that filing, ABC stated that NASA's unreasonable delay in the evaluation and improper rejection of its proposal "afforded the present contractor an unfair advantage." This broad language, according to the protester, encompassed any agency action that provided an unfair advantage to W&F, and ABC's specific allegation that the solicitation was ambiguous merely clarified and narrowed the basic protest.

We disagree. ABC first complained that actions taken by NASA during the agency's evaluation of proposals were unfair. Whether the solicitation as issued contained an ambiguity that worked to the advantage of the incumbent is an independent basis for protest unrelated to ABC's other allegations. It must independently satisfy our timeliness requirements. See Professional Review of Florida, Inc., et al., B-215303.3 et al., Apr. 5, 1985, 85-1 CPD ¶ 394. As discussed above, this supplemental basis for protest does not independently meet the timeliness requirements set forth in 4 C.F.R. 21.2(a)(2).

We affirm our dismissal of one basis of ABC's protest.

*Harry R. Van Cleve*  
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General Counsel