



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Eastman Kodak Company--Request for Reconsideration

File: B-228306.2

Date: February 25, 1988

DIGEST

Request for reconsideration asserting that contracting agency improperly omitted one component from list published in Commerce Business Daily (CBD) of microfiche equipment to be acquired from schedule contract presents no basis to disturb prior decision denying protest where protester offers no evidence refuting agency's technical determination that component was necessary to meet its minimum needs.

DECISION

Eastman Kodak Company requests reconsideration of our decision, Eastman Kodak Co., B-228306, Dec. 30, 1987, 87-2 CPD ¶ 643, denying its protest concerning the Army's decision to place an order with Datagraphix, Inc., for computer output microfilm (COM) equipment under its nonmandatory automatic data processing schedule contract with the General Services Administration. We deny the request for reconsideration.

The Army published a notice in the Commerce Business Daily (CBD) announcing its intention to acquire certain COM equipment, designated as Kodak Komstar IV or equal. The Army ultimately selected the Datagraphix model XC as lower in cost overall than the Kodak model, considering hardware, 5-year maintenance costs and supplies. In its protest, Kodak challenged the Army's selection of the Datagraphix equipment on two grounds. Kodak first argued that the awardee's equipment was not equal to the brand name model because it uses a different method to produce the microfiches. We denied the protest on this ground, finding that the Army properly concluded that the awardee's equipment was equal to the brand name model since the CBD notice did not list the production method as a salient characteristic and the awardee's model was functionally equivalent to the brand name equipment.

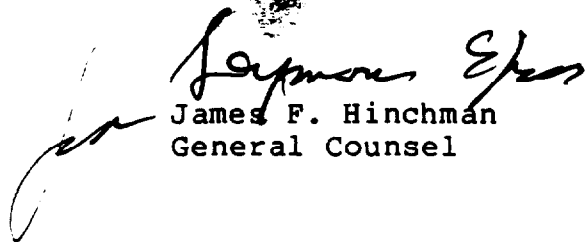
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Kodak also argued that even if the awardee's equipment was considered acceptable, the Kodak brand name model had a lower overall cost. Kodak's position was based primarily on its contention that the Army had improperly included a dual density tape drive in the list of required hardware, when all that it required was a less expensive single density drive. According to Kodak, substituting a single density drive would have made its equipment lower in cost overall than the Datagraphix model. We rejected this argument since Kodak, while objecting generally to inclusion of the dual density drive, failed to present any support for its disagreement with the Army's technical judgment that it required a dual density drive to meet its minimum needs.

In its request for reconsideration, Kodak challenges only the Army's decision to include the dual density drive in its cost analysis of the Kodak and Datagraphix equipment. As explained in our original decision, the CBD notice announcing the Army's intention to acquire the COM equipment omitted the tape drive from the list of equipment to be acquired. According to its report on the protest, when the Army began its analysis of the available equipment, the reviewing official determined that a dual density tape drive was necessary for off-line operation of the equipment. Kodak did not address the Army's conclusion in this regard in its initial protest. In its reconsideration request, however, Kodak asserts, and the Army now concedes, that either a single or a dual density drive would allow off-line operation of the COM equipment.

The Army maintains, however, that the dual density drive is necessary to meet its minimum needs because of its greater capacity and speed compared to a single density drive. Kodak offers no specific evidence to refute the Army's technical determination; instead, Kodak focuses on the Army's failure to include a dual density drive in the CBD notice listing the COM equipment to be acquired. Even assuming that the CBD notice should have included the requirement for the dual density drive, there is no indication, and Kodak does not show, that it was prejudiced by the omission. On the contrary, since the Army determined, and Kodak has not refuted, that a dual density drive was necessary to meet its minimum needs, and Kodak's equipment, including the dual drive, was higher in cost than the awardee's equipment, Kodak clearly was not prejudiced by the Army's failure to include the tape drive in the CBD notice.

Since Kodak has failed to show any error of law or fact in our prior decision, we deny the request for reconsideration.



James F. Hinchman
General Counsel