



## Decision

**Matter of:** Trimble Navigation, Inc.--Reconsideration

**File:** B-258436.3

**Date:** December 28, 1994

### DECISION

Trimble Navigation, Inc. requests reconsideration of our dismissal of its protest of the Department of the Air Force's exercise of an option under contract No. 701-93-D-0001 to Rockwell International Corporation, for the provision of precision lightweight GPS receiver sets (PLGR). Trimble filed an initial and supplemental protest challenging various aspects of the option exercise. On October 21, 1994, we dismissed the initial protest as factually and legally insufficient, and the supplemental protest as untimely. Trimble's request for reconsideration concerns only our dismissal of its supplemental protest.

We deny the request for reconsideration.

On March 31, 1994, the Air Force received an unsolicited proposal from Rockwell offering to incorporate several enhancements into the PLGR design. On April 15, the contracting officer notified Rockwell that he could not accept the unsolicited proposal. The contracting officer explained that:

"[w]hile the described upgrades/enhancements may be desirable, there are no formal government requirements for these upgrades at this time. In addition, the cost of the upgrades/enhancements, through maintaining Option 1 prices for the remainder of the PLGR contract, would not be acceptable."

On April 22, the Air Force exercised the second option under Rockwell's contract pursuant to Modification No. 0007. The agency exercised Option 2 approximately 7 months earlier than the contract delivery date, and Modification No. 0007 extended the Option 1 prices until the Option 2 delivery date became effective; the Option 1 prices were higher than the Option 2 prices. Modification No. 0007 did not amend the PLGR specifications to accept Rockwell's unsolicited proposal.

On October 11, Trimble filed the supplemental protest that is the subject of this request for reconsideration. Trimble protested the early exercise of Option 2 on the grounds that the Air Force lacked any basis for the accelerated delivery schedule, apart from maintaining Rockwell's higher Option 1 prices. Trimble claimed that it discovered this protest basis on October 5, when the Air Force furnished it with the contracting officer's letter to Rockwell advising that, "the cost of the upgrades/enhancements, through maintaining Option 1 prices for the remainder of the PLGR contract, would not be acceptable."

We dismissed the protest as untimely because the record showed that Trimble discovered its protest basis earlier than it claimed. Specifically, the Air Force produced a copy of a facsimile transmission dated September 20, 1994, where the Air Force furnished Trimble a copy of Modification No. 0007, providing that Option 2 would be exercised early and that Option 1 prices would apply to the accelerated orders. We determined that this document--not the contracting officer's letter refusing to extend Option 1 prices in exchange for Rockwell's PLGR enhancements--formed the basis for Trimble's protest allegation. Thus, Trimble's protest of October 11, which was filed more than 10 days after it received Modification No. 0007 on September 20, was dismissed as untimely. See 4 C.F.R. § 21.2(a)(2) (1994).

Trimble concedes that it received Modification No. 0007 on September 20.<sup>1</sup> However, Trimble insists that this document was insufficient to establish its protest basis. Trimble states that we misunderstood the key issue in its protest, which it describes as the "strong contradiction . . . in the refusal to maintain Option 1 pricing on 15 April 1994 and the exercise of Option 2 at Option 1 pricing on 22 April 1994." Trimble states that this contradiction formed the basis for its protest that the Air Force lacked a justification for the early option exercise.<sup>2</sup>

Trimble's arguments do not persuade us that its protest was timely. Trimble essentially concedes that the contracting officer's April 15 letter gave it no new information to protest the agency's decision to exercise Option 2 early at the Option 1 prices. The letter did not evidence "what the actual reason is for allowing Option 1 pricing to be

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<sup>1</sup>Trimble did not mention in its protest that it had ever received a copy of Modification No. 0007--the Air Force documented this fact in its motion to dismiss Trimble's protest as untimely.

<sup>2</sup>We will assume for the sake of argument that this could be considered a valid basis for protest.

utilized for Option 2," and did not illuminate the Air Force's rationale for exercising the option as it did. Trimble had all the information in its possession to protest the Air Force's rationale by September 20, having received Modification No. 0007 and having conversed with Air Force personnel around that time, who reportedly advised the protester of the reason for the early exercise of the option.

To obtain reconsideration, a requesting party must identify either factual or legal errors in our prior decision or must present information not previously considered that warrants reversal or modification. 4 C.F.R. § 21.12(a). Because Trimble has failed to meet this standard, we decline to reconsider our prior decision.

The request for reconsideration is denied.



Paul Lieberman  
Acting Associate General Counsel