



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Amtec Corporation--Request for  
Reconsideration

**File:** B-240647.5

**Date:** November 19, 1991

W.P. Albritton, Jr., for the protester,  
Ralph O. White, Esq., and Andrew T. Pogany, Esq., Office of  
the General Counsel, GAO, participated in the preparation of  
the decision.

### DIGEST

Request for reconsideration based on information obtained pursuant to a Freedom of Information Act request is dismissed as not timely where the protester, by waiting more than 4 months after issuance of the initial decision on its protest to initiate a request for the information, did not diligently pursue the information.

### DECISION

Amtec Corporation requests reconsideration of a portion of our decision in Amtec Corp., B-240647, Dec. 12, 1990, 90-2 CPD ¶ 482, in which we sustained Amtec's challenge to the evaluation of its proposal as marginal under one technical subfactor because that conclusion was not adequately supported by the record,<sup>1</sup> but denied Amtec's challenges to the Army's review of Amtec's proposed costs, and to the adequacy of discussions. Amtec now asks that we reconsider our denial of its challenge to the Army's review of proposed costs based on information recently provided to Amtec in response to a Freedom of Information Act (FOIA) request.

<sup>1</sup>We subsequently denied a request for reconsideration from the Army challenging our decision sustaining Amtec's initial protest in Department of the Army--Recon., B-240647.2, Feb. 26, 1991, 91-1 CPD ¶ 211. Based on the initial decision, and our subsequent denial of its request for reconsideration, the Army reevaluated proposals and did not select Amtec for award. The Army's second evaluation was upheld in Amtec Corp., B-240647.4, July 23, 1991, 91-2 CPD ¶ 82.

We deny the request for reconsideration as untimely because the protester failed to diligently pursue the information forming the basis of its request for reconsideration.

At issue here are Amtec's proposed travel costs. In our initial decision, we concluded that the discussions held with Amtec by the Army on the subject of travel costs were adequate.<sup>2</sup> In addition, our initial decision upheld the Army's cost realism adjustment to Amtec's proposed travel costs; the Army increased those costs by approximately \$200,000 to conform to the government's estimate. The Army explained that it did not find reasonable Amtec's use of discount air fares to calculate its travel costs because the agency's travel requirements were dynamic and discount fares might not be available on short notice.

In its request for partial reconsideration, Amtec sets forth a series of exchanges between it and the Army under FOIA. In the letters memorializing these exchanges, beginning with Amtec's initial request of April 23, 1991, Amtec sought support for the Army's estimate that travel costs during contract performance would total \$486,400. In a letter dated July 8, 1991, the Army explained to Amtec that its estimate was based "on the experience of government employees who routinely make these kinds of trips" and that there were no worksheets or other additional information to support the Army's estimate. Based on this information, Amtec now asks that we reverse our prior conclusion that the Army's cost realism analysis was reasonable.

Our Bid Protest Regulations contain strict rules requiring timely submission of protests, comments, and requests for reconsideration; specifically, a request for reconsideration must be filed within 10 working days after the requesting party knows or should know the basis for reconsideration. 4 C.F.R. § 21.12(b) (1991); MRL, Inc.--Request for Recon., B-235673.4, Aug. 29, 1989, 89-2 CPD ¶ 188. To ensure meeting these long-standing timeliness requirements, a protester has the affirmative obligation to diligently pursue the information that forms the basis for its protest. Horizon Trading Co., Inc.; Drexel Heritage Furnishings, Inc., B-231177; B-231177.2, July 26, 1988, 88-2 CPD ¶ 86.

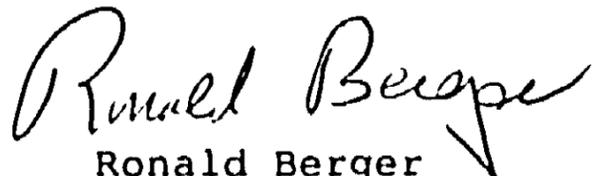
Although our requirement for diligent pursuit of information forming the basis for a protest has traditionally applied to the initiation of protests--as opposed to requests for reconsideration--the rationale for that rule applies equally

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<sup>2</sup>Specifically, the Army clearly and repeatedly led Amtec into the area about which it was concerned, asking three times for additional support for Amtec's proposed travel costs.

here. Amtec fails to offer any explanation for why it waited more than 4 months after we issued our prior decision before initiating a FOIA request for the Army's calculations in support of its rationale for its cost estimate for travel. Since our decision addressed in detail the Army's upward adjustment to Amtec's proposed travel cost, we find that the protester has not diligently or expeditiously pursued the information that forms the basis for its request for reconsideration, and, accordingly, we consider the request untimely. See Illumination Control Sys., Inc., B-237196, Dec. 12, 1989, 89-2 CPD ¶ 546.

The request for reconsideration is denied.

  
Ronald Berger  
Associate General Counsel