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The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Multi Services Assistance, Inc.--Reconsideration

File: B-232082.2

Date: November 23, 1988

DIGEST

Request for reconsideration is denied where protester essentially reiterates arguments initially raised and fails to show any error of fact or law that would warrant reversal or modification.

DECISION

Multi Services Assistance, Inc., requests that we reconsider our decision Multi Services Assistance, Inc., B-232082, Oct. 28, 1988, 88-2 CPD ¶ ___, denying its protest of the terms of request for proposals (RFP) No. DAEA18-88-R-0027, issued by the Department of the Army for operation and management services, including transportation, maintenance and laundry services, at Fort Huachuca, Arizona.

We deny the request for reconsideration.

The RFP, issued as a total small business set-aside, contemplated award of a contract for 1 base year and 4 option years. The solicitation provided that a specified level of effort for each work category would be mutually established at the time of contract award based on the staffing appendix prepared by the offeror, which was to include adequate staffing to accomplish the work identified in each functional area of the performance work statement (PWS). The RFP also included a Performance Requirements Summary (PRS) that detailed the major performance elements, the maximum allowable deviation from satisfactory performance, the quality assurance methods to be used, the value of each requirement and the procedure to be used to reduce contractor reimbursement for unsatisfactory performance that could not be reperformed. By amendment

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No. 3, the Army added a sentence to the RFP characterizing the type of contract to be awarded as a fixed-price, level-of-effort contract.

Multi Services argued that the RFP was defective because the Army did not specify a level of effort and included a PRS which provided for the reduction of payment for unsatisfactory performance, contrary to Federal Acquisition Regulation (FAR) § 16.207, which states that a fixed-price, level-of-effort contract may be used only when, among other factors, the required level of work is identified and agreed upon in advance, and payment is based on effort expended rather than results achieved.

We found that, in light of the type of services called for by the RFP and the requirement that the offerors themselves formulate the number and skill level of the required staff based on the detailed PWS and historical work load data provided, the RFP, read as a whole, contemplated award of a fixed-price services contract. The fact that the RFP labeled it a level-of-effort contract did not change the underlying nature of the contract. Accordingly, we saw no basis to object to the lack of a specified level of effort or the inclusion of the PRS for reviewing the contractor's performance, which is in essence an extension of the standard "Inspection of Services" clause that generally must be included in all fixed-price service contracts.

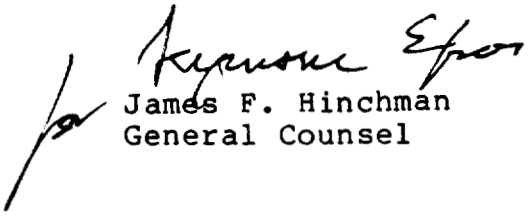
In its request for reconsideration, Multi Services reiterates its arguments that the Army intended to award a fixed-price, level-of-effort contract without specifying a level of effort and that the inclusion of a PRS is inconsistent with such a contract.

A party requesting that we reconsider a bid protest decision must show that our prior decision contains either errors of fact or of law or that there is information not previously considered warranting reversal or modification of the decision. Bid Protest Regulations, 4 C.F.R. § 21.12 (1988). Repetition of arguments made during resolution of the original protest, or mere disagreement with our decision, does not meet this standard. Hi-Q Environmental Products Co.--Reconsideration, B-229683.2, May 19, 1988, 88-1 CPD ¶ 474.

Here, Multi Services reiterates arguments that the firm raised in its initial protest and which we fully considered in reaching our decision. Moreover, we have reviewed our decision in the context of the reconsideration request and we do not find that our decision was based on an error of

law or fact. Accordingly, we see no basis to disturb our decision.

The request for reconsideration is denied.



for James F. Hinchman
General Counsel