



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Transportation Research Corporation--
Request for Reconsideration
File: B-231914.2

Date: November 10, 1988

DIGEST

Reconsideration request is denied where the protester has presented no evidence that prior decision was based on factual or legal errors.

DECISION

Transportation Research Corporation (TRC) requests that we reconsider our decision, Transportation Research Corp., B-231914, Sept. 27, 1988, 88-2 CPD ¶ 290, denying its protest of the Federal Highway Administration's (FHWA) award of a contract to Center for Applied Research (CAR), under request for proposals (RFP) No. DTFH61-88-R-00048.

We deny the request for reconsideration.

The RFP sought proposals on a cost-plus-fixed-fee basis for a study entitled "Ramp Signing for Trucks" and described three technical evaluation factors in descending order of importance: offeror's available resources to complete the contract requirements satisfactorily and on schedule; offeror's demonstration of technical competence and understanding; and offeror's responses to the technical requirements of the RFP as reflected in the proposal. The RFP provided that in addition to these criteria, relative cost would be considered in the award decision.

Five of the six proposals received were found technically acceptable and included in the competitive range. The difference in the technical scores, from highest to lowest, was 8 points, with 100 points being the maximum obtainable score. Following discussions and evaluation of best and final offers, the contracting officer determined that because of the relatively minor difference in technical point scores, cost should be the determinative factor, and awarded a contract to CAR, the lowest cost offeror. TRC was the third lowest cost offeror.

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TRC protested that CAR's proposal did not meet RFP requirements to test active vehicle-actuated signs and consider hazard-prone, high center of gravity vehicles. TRC contended that CAR's proposed data collection equipment could not meet the RFP requirement for assessing the speed-reducing capabilities of signs because it was not capable of providing vehicle-specific speed records. We found FHWA's judgment of the technical acceptability of CAR's proposal to be reasonable because CAR did not take exception to the RFP requirement to test active vehicle-actuated signs, and would field test a vehicle-actuated system after successful laboratory testing.

We noted that CAR's analysis would assess the speed reducing capabilities of signs using speed profiles generated from grouped vehicle data. The analysis would examine specified groups of vehicles characterized by vehicle speed, vehicle type and headway, thereby allowing specific hazard-prone groups of vehicles to be identified and the effects of the signs to be evaluated. Thus, according to the FHWA, it was not essential that vehicle-specific data be used to assess the speed reducing capabilities of signs. We could not say that the FHWA's evaluation was unreasonable, particularly since the RFP listed no specific requirements for data collection equipment.

TRC also protested that FHWA gave more weight to cost than to technical considerations, and thus misapplied the evaluation criteria set forth in the RFP. We explained that where an RFP indicates that cost will be considered, without explicitly indicating the relative weight to be given to cost versus technical factors, it must be presumed that cost and technical considerations will be considered approximately equal in weight. The contracting officer determined that all offerors would be able to perform acceptably, and the record indicated that the agency never viewed TRC's slightly higher point score as evidencing actual technical superiority over the awardee. CAR's cost was approximately 12 percent lower than the next low offeror's cost, and was approximately 15 percent lower than TRC's cost. In these circumstances, we found no reason to question the agency's determination to make award on the basis of cost.

In its request for reconsideration, TRC alleges that our decision contained a factual misstatement about the capability of CAR's approach, did not give consideration to mandatory requirements of the solicitation, and was based on incomplete information.

To obtain reversal or modification of a decision, the requesting party must convincingly show that our prior decision contains either errors of fact or law or information not previously considered that warrant its reversal or modification. See 4 C.F.R. § 21.12(a) (1988), Interstate Diesel Services, Inc.--Reconsideration, B-230107.3 et al., Aug. 30, 1988, 88-2 CPD ¶ 190. Repetition of arguments made during the resolution of the original protest or mere disagreement with our decision does not meet this standard. Id.

TRC alleges that our discussion of the capability of CAR's approach is factually incorrect in stating that CAR's analysis will allow specific hazard-prone groups of vehicles to be identified and the speed-reducing effects of signs to be evaluated. TRC argues that CAR's use of grouped vehicle data obfuscates any sign effects associated with individual hazard-prone vehicles, and thus cannot identify speed-reducing effects of signs on hazard prone groups of vehicles.

TRC's allegation is just a restatement of its original protest contention that vehicle-specific data must be used to assess the speed-reducing capabilities of signs. As we addressed this argument in our decision, TRC's repetition of the argument shows that it simply disagrees with the conclusion in our prior decision.

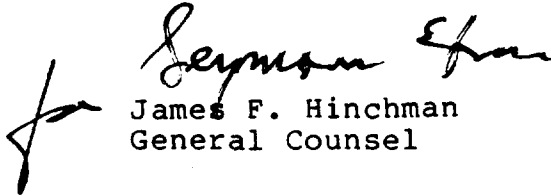
TRC also contends that our decision did not give consideration to mandatory solicitation requirements with a reiteration of arguments raised in the initial protest. For example, TRC contends that it is obviously impossible to meet the mandatory technical requirement to evaluate vehicle-actuated signs without using data on specifically identified hazard-prone vehicles. Again, TRC is merely rephrasing its original protest argument that vehicle-specific data must be used to assess the speed-reducing capabilities of signs.

TRC also argues that our decision was based on incomplete information because it was rendered before TRC submitted supplemental comments on CAR's protest comments.

Under our Bid Protest Regulations, TRC was entitled to file comments on the agency report, not comments on the interested party's comments. See 4 C.F.R. §§ 21.3(k) and (1). It is only in exceptional circumstances, at our discretion, that we permit the submission of additional statements if we determine that such statements are necessary for the fair resolution of the protest, which was not the case here. In any event, the information TRC raised

in its response to CAR's comments merely restates arguments raised in TRC's other protest submissions which we considered.

Since the protester has presented no argument or information establishing that our prior decision is legally or factually erroneous, we deny the request for reconsideration.

A handwritten signature in black ink, appearing to read "James F. Hinchman". To the left of the signature is a small, stylized mark that looks like a lowercase "f" or a checkmark.

James F. Hinchman
General Counsel