



Decision

Matter of: Dura Brands, Inc.--Reconsideration

File: B-415539.2; B-415541.2

Date: February 27, 2018

Fayez Yousef for the protester.

Dennis J. Gallagher, Esq., Department of State, for the agency.

Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration is denied where the requester has not shown any error of fact or law warranting reversal or modification of our earlier decision, and is dismissed to the extent it is based on repetition of arguments made during the protest.

DECISION

Dura Brands, Inc., of Glendale, California, asks that we reconsider our decision in B-415539; B-415541, Dura Brands, Inc., Dec. 28, 2017, 2017 CPD ¶ ___, in which we denied Dura's protest of the award of contracts to other offerors under solicitation Nos. PR6708889 and PR6708930, both issued by the Department of State for various educational books.¹ In its protest, Dura challenged the agency's determination that its lowest-priced bids were technically unacceptable, and in our decision, we found that the agency's rejection of Dura's bids was reasonable, based on Dura's failure to include in its bids material information required by the solicitations. In its request for reconsideration, Dura contends that our dismissal decision misconstrued the stated basis for the protest.

We deny the request.

¹ Dura has protested two separate procurements and requests reconsideration of the consolidated decision resolving both protests. Because the relevant facts for the two decisions are identical, we refer in this decision to the underlying facts collectively.

As explained in the protest decision, the procurements were conducted under the simplified acquisition procedures established in Federal Acquisition Regulation (FAR) part 13, as reverse auction buys via the FedBid website. As relevant here, the FedBid solicitation postings included specific bid submission requirements pertaining to non-pricing information, including the following: “Sellers MUST enter exactly what they are bidding (including make, model, and description) into the blank description field in order for the bid to be considered.” Dura expressly indicated that it had “read and understood” these specific instructions when it submitted its bid. Dura did not challenge any aspect of the specifications or ground rules established in the solicitation prior to the closing time for submission of bids.

Dura submitted bids on which, instead of providing the required description of the requested books, Dura wrote only the word “[n]ew” in the description field. The bids were found technically unacceptable on that basis. Dura protested the rejection of its bids, arguing that the solicitation required “redundant information [that] was immaterial and it constituted unreasonably narrow technical requirement”; and that the contract line item numbers (CLINs) included International standard book numbers (ISBNs) that uniquely identify a book, so that no further information was needed to describe the book. Protest at 2, 3.

Dura’s protest was denied because Dura’s bid failed to include the specific information required to be submitted in the designated description field, as expressly required by the FedBid listings. In addition, our decision explained that to the extent Dura was arguing that the requirement to provide this information in the description field was an “unreasonably narrow technical requirement,” it was untimely because it alleged an impropriety in the solicitations that was required to be raised prior to the closing time for receipt of bids.

In its request for reconsideration, Dura essentially argues that the dismissal misconstrued the protester’s argument, stating as follows:

[T]he unreasonableness of the narrow technical requirement lies in the *insistence* on providing the book information in the description field *when it had been already provided* as part of a requested attachment (which is part of the bid package)—not in the ‘requirement to provide a book description in the description field’ *per se*.

Recon. Request at 1 (emphasis in original).

Under our Bid Protest Regulations, to obtain reconsideration, a requesting party must demonstrate that our prior decision contains errors of fact or law, or present new information not previously considered that would warrant reversal or modification of our earlier decision. 4 C.F.R. § 21.14(a); Blue Horse Corp.—Recon., B-413929.2, B-413929.4, May 16, 2017, 2017 CPD ¶ 149 at 4. Repetition of arguments previously made, or disagreement with our prior decision, do not provide a basis for our Office to reconsider the earlier decision.

Here, even were we to find persuasive the distinction Dura is making between its intended argument and the argument as we understood it, this distinction does not demonstrate error in our decision, and thus provides no basis for reconsideration. In this regard, no matter which aspect of the specification Dura was challenging, its challenge is to an alleged impropriety in the solicitation, which, filed after the closing time for receipt of bids, is untimely.

In addition to this allegation of error in our decision, Dura repeats and elaborates on several arguments that our decision denied. As stated above, such repetition provides no basis for reconsideration.

The request for reconsideration is denied.

Thomas H. Armstrong
General Counsel