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Decision

Matter of: Alion Science & Technology Corporation--Reconsideration

File: B-420778.3

Date: December 27, 2022

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DIGEST

Reconsideration of prior decision is denied where the requesting party does not show that our prior decision contains errors of fact or law that would warrant reversal or modification of the decision.

DECISION

Alion Science & Technology Corporation, of Fairfax, Virginia, requests reconsideration of our decision in *Alion Science & Technology Corporation*, B-420778, B-420778.2, Aug. 31, 2022, 2022 CPD ¶ 248. In that decision, GAO denied Alion's protest against the issuance of a task order to ManTech TSG-2 Joint Venture under Fair Opportunity Proposal Request (FOPR) No. P1-20-2224, issued by the Department of the Air Force for research and development services in support of the Naval Surface Warfare Center, Corona Division. Alion asserts that our decision is tainted by errors of fact and law.

We deny the request for reconsideration.

BACKGROUND

The solicitation was issued on June 11, 2021. Under the task order, the contractor is required to provide research and development related services to "develop current, accurate representations of new and existing advanced weapons systems and technologies and model those capabilities in a simulated environment in response to

emerging threats and new capabilities.” Agency Report (AR), Tab 7, FOPR at 5-6.¹ Following the submission and evaluation of proposals, and a best-value tradeoff determination, the task order was issued to ManTech. On May 24, 2022, Alion filed a protest with our Office challenging the award to ManTech. Alion’s protest challenged various aspects of the agency’s evaluation of proposals and source selection decision. Relevant here, Alion challenged several aspects of the agency’s evaluation of proposals under the labor basis of estimate (LBOE) subfactor. In our decision, we concluded that the agency properly evaluated Alion’s and ManTech’s proposals under the LBOE subfactor. Overall, we concluded that the agency’s evaluation of proposals was reasonable and conducted in accordance with the solicitation’s evaluation criteria. Accordingly, we found the agency’s best-value tradeoff decision was unobjectionable.

DISCUSSION

Alion requests reconsideration of the decision, asserting that we made several mistakes of fact and that we would have resolved the protest differently if we had considered relevant and material information. Req. for Recon. at 1. Alion also alleges that our decision was based on an error of law. *Id.* For the reasons discussed below, we find that none of the arguments presented by the requester provides a basis to grant the request for reconsideration.

Under our Bid Protest Regulations, to obtain reconsideration, the requesting party must set out the factual and legal grounds upon which reversal or modification of the decision is deemed warranted, specifying any errors of law made or information not previously considered. 4 C.F.R. § 21.14(a). We will reverse a decision upon reconsideration only where the requesting party demonstrates that the decision contains a material error of law or facts. *AeroSage, LLC--Recon.*, B-417529.3, Oct. 4, 2019, 2019 CPD ¶ 351 at 2 n.2; *Department of Justice; Hope Village, Inc.--Recon.*, B-414342.5, B-414342.6, May 21, 2019, 2019 CPD ¶ 195 at 4. The repetition of arguments made during our consideration of the original protest and disagreement with our decision do not meet this standard. *Veda, Inc.--Recon.*, B-278516.3, B-278516.4, July 8, 1998, 98-2 CPD ¶ 12 at 4.

Alion argues that our decision is based on factual error regarding the agency’s evaluation of ManTech’s labor basis of estimate. Alion argued in its protest that there was a material inconsistency between ManTech’s labor basis of estimate and its cost/price proposal that should have rendered Mantech’s proposal unacceptable and unawardable. Protest at 4-9. For the reasons that follow, we find this argument fails to demonstrate any error of fact and does not provide a basis to reconsider our decision.

In our decision, we considered Alion’s contention that the agency “unreasonably failed to recognize and evaluate alleged material inconsistencies between ManTech’s labor basis of estimate proposal and ManTech’s cost proposal.” *Alion Science, supra* at 7

¹ Citations are to the agency report provided in response to Alion’s underlying protest, B-420778, B-420778.2.

(citing Comments & Supp. Protest at 4-9; Protester's Supp. Comments at 1-10). Our decision set forth the protester's argument that "ManTech's revisions to its cost proposal in response to FOPR amendment 0003 'drastically reduced the quality of its workforce,' which was not reflected by corresponding changes to its labor basis of estimate proposal." *Id.* at 7-8. Our decision explained that, "[a]s a result, Alion allege[d] that ManTech's labor basis of estimate proposal consists of a stronger labor mix than that reflected in ManTech's cost proposal." *Id.* at 8 (citing Comments & Supp. Protest at 13).

Our decision also considered the agency's position that its "evaluation of ManTech's labor basis of estimate proposal was reasonable and in accordance with [the] FOPR's evaluation criteria." *Id.* (citing Supp. Contracting Officer Statement and Memorandum of Law (COS/MOL) at 3). Our decision noted that the agency asserted, "Alion's arguments fail to point to a single material inconsistency between ManTech's labor basis of estimate proposal and ManTech's cost proposal." *Id.* (citing Supp. COS/MOL at 3-13). Our decision also pointed out that the agency "explain[ed] that ManTech's revised cost proposal in response to amendment 0003 lowered certain labor rates and changed corresponding cost codes, but did not change the proposed labor categories and skill sets." *Id.* (citing Supp. COS/MOL at 5). Our decision further noted that the agency argued that "ManTech's choice to 'propose a lower priced cost code for a particular skill set within a particular labor category does not' necessarily translate to a reduction in the proposed skill set or an inability to meet the described labor basis of estimate qualifications." *Id.* (citing Supp. COS/MOL at 6).

In resolving this issue, our decision pointed to the FOPR evaluation criteria, which provided that the agency would "evaluate proposals under the labor basis of estimate subfactor by considering whether each offeror proposed a 'project baseline and methodology expressed in terms of appropriate qualifications, skill sets, certifications, clearances, and scheduled labor hours required to successfully complete the . . . requirements of the PWS.'" *Id.* (citing AR, Tab 7a, FOPR Evaluation Criteria at 3). We found that the "record shows that the agency considered the proposed qualifications, skill sets, certifications, clearances, and scheduled labor hours that ManTech proposed in its labor basis of estimate." *Id.* (citing AR, Tab 24b, ManTech Consensus Evaluation at 15-22). Our decision also noted that the agency evaluators specifically noted, by labor category, the percentage of proposed positions that ManTech's proposal stated would meet the FOPR's preferred qualifications. *Id.* (citing AR, Tab 24b, ManTech Consensus Evaluation at 18-21).

Ultimately, our decision found "no basis to question the agency's evaluation of ManTech's proposal under the labor basis of estimate subfactor in light of the contents of ManTech's cost proposal." *Id.* We concluded that, "[w]hile Alion maintains that ManTech's changed cost codes for certain labor categories in response to FOPR amendment 0003 must indicate a reduction in the qualification and skills in ManTech's proposed labor basis of estimate, Alion does not point to, nor does our review of the record reveal, any material inconsistencies between ManTech's labor basis of estimate and cost proposal." *Id.* We further concluded that Alion "does not identify any aspect of ManTech's labor basis of estimate that does not meet the requirements of the PWS."

Id. at 8-9. In addition, we found that, “[s]eperately, Alion does not specify any unrealistic costs in ManTech’s proposal when compared to the proposed qualifications, skill sets, certifications, or clearances in ManTech’s labor basis of estimate.” *Id.* at 9.

According to Alion, our conclusion above--that “Alion does not point to, nor does our review of the record reveal, any material inconsistencies between ManTech’s labor basis of estimate and cost proposal”--is factually wrong because the “record demonstrates beyond any reasonable doubt that ManTech expressed in its revised Cost/Price proposal submitted in response to FOPR Amendment 3 that ManTech was no longer committed to meeting the FOPR’s ‘preferred’ qualifications for many labor categories that formed a basis of the LBOE evaluation.” Req. for Recon. at 2. In support of this assertion, Alion points to statements in ManTech’s revised cost proposal stating that it was “updating its ‘original proposed direct labor rates **for the labor categories impacted by the revised qualification from Required to Preferred**’ in light of now having ‘access to a wider pool of employees and prospective hires based on the updated qualifications.” See, e.g., Req. for Recon. at 3 (citing AR, Tab 21, ManTech Revised Proposal, Vol. II – Cost/Price, at 16, and AR Tab 21a, ManTech Revised Proposal, Vol. II – Cost Model: Tab “Summary of Pricing Changes.”). Alion contends that the changes to ManTech’s direct labor rates in its cost/price proposal “were expressly ‘based on the updated qualifications’ [in amendment 0003] from ‘Required’ to ‘Preferred’ [and] resulted in ManTech reducing its cost estimate,” but that ManTech did not “update its LBOE” in its technical proposal consistent with this change to reflect the fact that “many of its proposed personnel would no longer meet those newly ‘preferred’ qualifications.” Req. for Recon. at 3, 6.

Alion maintains that the factual error in our decision--that is, our conclusion that Alion did not identify, and the record did not contain, any material inconsistency between ManTech’s proposal volumes--“was crucial to the outcome of this protest” and “was based on GAO’s failure to account for the fact that ManTech’s revised Cost/Price proposal itself made clear that ManTech was downgrading the qualifications of its personnel.” *Id.* at 6.

Alion has not demonstrated that our decision was based on a material error of fact. Although our decision did not specifically mention or discuss the amended language in ManTech’s revised cost/price proposal identified by Alion in its request for reconsideration, there is no question that this language, and in fact, the very same argument, was raised by Alion and briefed extensively by the parties during the prior protest proceedings. See *Id.* (quoting Comments & Supp. Protest at 7 (“ManTech’s revised Cost/Price proposal touted the fact that ManTech had been able to shave over \$[DELETED] off its price by reducing the quality of its labor pool[, b]ut ManTech never updated its LBOE--on which the evaluators relied in performing their assessment under Subfactor 3--such that it continued to reflect the level of qualifications ManTech had previously committed to meet (when they were described in the PWS as ‘required,’ not just ‘preferred’). This is a **material inconsistency** between the versions of ManTech’s proposal volumes . . . that should have rendered ManTech’s proposal unacceptable and unawardable.”).

In addition, as noted above, our decision did recognize that Alion's argument involved the allegation that the agency "unreasonably failed to recognize and evaluate alleged material inconsistencies between ManTech's labor basis of estimate proposal and ManTech's cost proposal." *Alion Science, supra* at 7 (citing Comments & Supp. Protest at 4-9; Protester's Supp. Comments at 1-10). Our decision pointed out and the agency explained, however, that although "ManTech's revised cost proposal in response to amendment 0003 lowered certain labor rates and changed corresponding cost codes," it "did not change the proposed labor categories and skill sets." *Id.* at 8 (citing COS/MOL at 5). Our decision also noted that the agency argued "ManTech's choice to 'propose a lower priced cost code for a particular skill set within a particular labor category does not' necessarily translate to a reduction in the proposed skill set or an inability to meet the described labor basis of estimate qualifications." *Id.* (citing COS/MOL at 6).

Our decision found "no basis to question the agency's evaluation of ManTech's proposal under the labor basis of estimate subfactor in light of the contents of ManTech's cost proposal." *Id.* Our decision concluded that "[w]hile Alion maintains that ManTech's changed cost codes for certain labor categories in response to FOPR amendment 0003 *must* indicate a reduction in the qualification and skills in ManTech's proposed labor basis of estimate," *id.* (emphasis added), we did not agree with Alion's position that "material inconsistencies" were reflected in the record between ManTech's labor basis of estimate and cost proposal.² *Id.*

While Alion may disagree with our Office's resolution of its arguments, its request for reconsideration essentially reasserts and reiterates the argument previously raised in its comments and supplemental protest. As our Office has explained, repetition of arguments, without more, does not provide a basis to reconsider a decision. 4 C.F.R. § 21.14(c); *Department of Defense-Recon.*, B-416733.2, Mar. 18, 2019, 2019 CPD ¶ 110 at 2-3. None of Alion's arguments in its request for reconsideration demonstrates that our decision contained a factual error with regard to our conclusion that Alion did not identify, and the record did not contain, a material inconsistency between ManTech's proposal volumes. We therefore find no basis to reconsider our decision.

Alion also argues that our decision contained an error of law because we determined that the agency reasonably did not assign any strengths to Alion's proposal for its commitment to meet all of the performance work statement's (PWS) preferred

² Alion also asserts that "the record shows that ManTech continued to receive evaluation credit under [the LBOE subfactor] for purportedly committing to satisfy those 'preferred' qualifications, even though ManTech's revised Cost/Price proposal had disavowed that commitment." Req. for Recon. at 2. The protester maintains that this was another error of fact that was "crucial to the outcome of Alion's protest." *Id.* This argument also relates to Alion's position that there was a "material inconsistency" between ManTech's labor basis of estimate and cost proposal. Alion's disagreement with the decision and attempt to reargue the merits of the underlying protest, however, does not provide a basis to reconsider the decision.

qualifications. As discussed below, Alion's attempt to reargue the merits of the underlying protest is unavailing.

In its protest, Alion argued that that the agency erred in failing to assign its proposal a strength in recognition of its proposed commitment that all of its proposed personnel would meet all of the PWS's preferred qualifications. Protest at 9, 46.

Our decision found reasonable the agency's conclusion that "the labor qualifications and labor hour and skill mix proposed by Alion in its labor basis of estimate did not merit strengths," noting that the "record demonstrates that the agency evaluators considered these aspects of Alion's proposal and concluded that they did not warrant strengths." *Alion Science, supra* at 6. For example, our decision found that, although Alion argued that its proposal "deserved a strength for proposing 'a very high percentage of' named, incumbent personnel 'who satisfy all of the required and preferred qualification requirements,'" the "record demonstrates that the agency specifically considered the NCTE [Navy's continuous training environment] experience and availability of Alion's proposed personnel, yet did not find it merited a strength." *Id.* (citing Protest at 42-43).

We explained that, "[i]n this respect, the agency noted in its evaluation of the PWS's transition task that Alion proposed 'currently available personnel [that] meet all PWS 8.0 requirements, including experience with NCTE systems. . . ." *Id.* (citing AR, Tab 24a, Alion Consensus Evaluation at 15 (citing AR, Tab 12, Alion Vol. I Proposal at 32). In addition, our decision noted that the agency "also evaluated the extent to which proposed personnel from each set of labor categories met the PWS's required or preferred qualifications. *Id.* (citing AR, Tab 24a, Alion Consensus Evaluation at 18, which notes that 100 percent of Alion's proposed networks engineer positions "specifically identify certifications for each position such as, Security+ CE, CCNP, CISSP and CCNA."). Ultimately, the decision found that the agency considered the proposed "qualifications, skill sets, certifications, [and] clearances" as required by the FOPR" and also found that Alion had not demonstrated that the agency acted unreasonably or inconsistently with evaluation criteria by not assessing a strength to Alion's proposal for its proposed personnel. *Id.* at 7 (citing AR, Tab 7a, FOPR Evaluation Criteria at 3).

In its request for reconsideration, Alion argues that the decision contained an error of law because the agency "diverged from the FOPR's plain terms" in failing to recognize a strength in Alion's proposal for its commitment to satisfy all of the PWS's preferred/ desired qualifications. Req. for Recon. at 10. Again, this allegation reargues issues already considered by our Office. In its protest, Alion contended that its proposed personnel met all "preferred" qualifications set out in the PWS and that "[b]y definition, Alion's proposed LBOE exceeded the [a]gency's requirements in a manner advantageous to the [a]gency, yet Alion did not receive a strength." Protest at 42. While Alion disagrees with our Office's determination regarding the reasonableness of the agency's evaluation, this disagreement and rearguing of the merits is not sufficient to demonstrate that the decision contained an error of law.

In sum, while it is clear that Alion disagrees with the outcome of our decision, our Office will reverse a decision upon reconsideration only where the requesting party demonstrates that the decision contained an error of fact or law, or identifies information that was not previously considered. Alion's various efforts to reargue the merits of the underlying protest do not demonstrate an error of fact or law that warrants reversing or modifying our decision.

The request for reconsideration is denied.

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