



Decision

Matter of: Leadership and Performance Strategies, LLC--Reconsideration

File: B-421127.4

Date: April 7, 2025

Ronald E. Hewett, for the protester.
Adam R. Briscoe, Esq., and Sylvia Yi, Esq., Bass, Berry & Sims PLC, for Cognito Systems, LLC, the intervenor.
Christopher S. Colby, Esq., Terri M. Sumner, Esq., and John Sabatino, Esq., United States Marine Corps, for the agency.
Heather Self, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration of prior decision dismissing protest for failure to include a sufficient factual basis of protest is denied where the requestor has not shown that our decision contains errors of fact or law that would warrant reversal or modification of the decision.

DECISION

Leadership and Performance Strategies, LLC, a small business of Sanford, North Carolina, requests reconsideration of our decision in *Leadership Performance and Strategies, LLC*, B-421127.3, Dec. 20, 2024 (unpublished decision), in which we dismissed Leadership's protest for failing to include a sufficient factual basis of protest.

We deny the request for reconsideration.

BACKGROUND

On August 5, 2022, the United States Marine Corps issued request for proposals (RFP) No. M00264-22-R-0008 for on-site certified athletic trainer and strength and conditioning specialist services for Marine Corps operating forces and entry-level training locations worldwide. Req. for Dismissal at 1; Req. for Dismissal exh. 1, RFP at 21, 16-17.¹ The solicitation contemplated issuance of a single fixed-price indefinite-delivery, indefinite-quantity contract for a 1-year base period and four 1-year option periods.

¹ Citations to documents other than the request for reconsideration are to the record in the underlying protest.

RFP at 12, 17. Award would be made on a best-value tradeoff basis considering the following factors: (1) management and staffing; (2) past performance; and (3) price. *Id.* at 17, 19. The solicitation provided that the management and staffing factor was significantly more important than past performance, and that the two non-price factors combined were significantly more important than price. *Id.* at 19.

Relevant here, for the management and staffing factor the solicitation established the agency would:

evaluate the offeror[']s management approach to meet the requirements outlined in the PWS [performance work statement]. Specifically, the Government will evaluate the offeror's experience in managing similar programs and the work breakdown structure that demonstrates how the offeror will provide continuous, quality, and timely support. The Government will evaluate the offeror's plan to locate, recruit, and retain athletic trainers and strength conditioning coaches that meet or exceed the minimum standards, throughout the various locations, that will mitigate competition by other public, governmental, and/or private entities in the same market. The Government will evaluate the offeror[']s operational plan for effective communication between the Government and the offeror's employees, ensuring quality services are provided and mission goals are achieved.

RFP at 19. The solicitation provided that the management and staffing factor evaluation would utilize adjectival ratings of outstanding, good, acceptable, marginal, or unacceptable. *Id.* at 17-18. For example, an adjectival rating of good would apply when: "Proposal indicates a thorough approach and understanding of the requirements and contains at least one strength, and risk of unsuccessful performance is low to moderate." *Id.* at 18.

In its protest, Leadership challenged the award of a contract to Cognito Systems, LLC, of Newport News, Virginia. Leadership argued the award was improper because the agency failed to evaluate proposals against the evaluation factors and subfactors set forth in the solicitation. Protest at 1. Specifically, Leadership maintained that the solicitation established work breakdown structure (WBS) and risk analysis as subfactors against which proposals would be evaluated, but the Marine Corps did not conduct a separate assessment for these two subfactors. *Id.* at 1-2. As a result, Leadership contended, the agency's source selection decision was made on the basis of lowest price, rather than on a best-value tradeoff basis as provided for in the solicitation. *Id.* at 3.

The agency requested dismissal of the protest, arguing that because the solicitation did not require the type of evaluation claimed by Leadership, the protest lacked sufficient legal and factual grounds. Req. for Dismissal at 8. Specifically, the agency maintained "there is no language in the Solicitation that obligates the Agency to provide a separate/specific assessment for each aspect of the technical factor, or portions of an

offeror's proposal," as claimed by Leadership. *Id.* The agency contended Leadership was

mistaken in its claims that the evaluation must "discuss risk analysis for significant elements of the proposal," utilize a "systemic scoring system," create a "ranking" of offerors, conduct individualized assessments of subdivided portions of each offeror's proposal and of the evaluation factors, and establish some evaluative linkage between the technical and past performance factors.

Id. (citing Protest at 2-3). Rather, the agency represented "the technical factor (Factor 1--Management and Staffing) provides that the Government will evaluate various aspects of proposals, [but] there are no subfactors," and that the solicitation required "a routine Combined Technical/Risk Rating" for this factor. *Id.* at 5.

Prior to responding to the agency's dismissal request, Leadership asked our Office to direct the Marine Corps to provide additional information or clarification about the information included in two debriefing letters related to the procurement. Req. for Additional Submissions at 1. Specifically, Leadership noted that the two debrief letters "appear to be inconsistent and/or inaccurate," which Leadership maintained would "have a significant impact on our processing of the Agency Request for Dismissal." *Id.* We denied Leadership's request "to clarify documents," stating: "No clarification is needed to respond to the dismissal request, which challenges whether the protest is sufficient." Electronic Protest Docketing System (Dkt.) No. 12.

In responding to the agency's dismissal request, Leadership asserted:

We do not argue, as the Agency alleges, that we wanted the Agency to use different evaluation criteria. We believe that the RFP was correct in identifying WBS as an important aspect in identifying how the offeror "will provide continuous, quality, and timely support." And, the RFP also committed to evaluating Factor 1; Management and Staffing by using a combined Technical/Risk Rating Method as pointed out by the Agency.

Resp. to Req. for Dismissal at 1. Additionally, Leadership maintained that its protest provided sufficient legal and factual grounds because, in the protester's view, Leadership's proposal included some added costs due to the firm's emphasis on WBS and risk analysis putting the proposal "far from the LPTA [lowest-priced, technically acceptable] end of the spectrum" of the best value continuum established by section 15.101 of the Federal Acquisition Regulation. Resp. to Req. for Dismissal at 2. Thus, according to Leadership, "based on the low prices of the three proposals that have been awarded the contract, we have seen evidence that the Agency prefers the proposals clustered in the LPTA range on the Best Value continuum" creating "reasonable doubt that these offers presented the 'other factors' required in a Best Value award and do not give us confidence that a combined Technical/Risk Rating Method was used as required by the solicitation." *Id.* at 2-3.

In our decision, we noted the solicitation identified three evaluation factors--management and staffing, past performance, and price--and that our review of the RFP showed "there were no subfactors under the management and staffing factor." *Leadership Performance and Strategies, LLC, supra* at 2, 2 n.1. Our decision found that the debriefing documentation submitted by Leadership with its protest "shows an evaluation that is consistent with the RFP." *Id.* at 3. Additionally, we concluded that Leadership's argument "that the Marine Corps erred by not performing separate assessments of what it calls individual elements within the management and staffing factor" were not supported by the RFP, which did not require "any such separate element evaluation." *Id.* Accordingly, we dismissed the protest for failing to include sufficient information to establish a factual basis to support Leadership's contentions or establish that the evaluation was inconsistent with the RFP or applicable procurement laws or regulations. *Id.* at 3-4.

DISCUSSION

In its request for reconsideration, Leadership asserts that our decision included multiple "factual and/or legal errors." Req. for Recon. at 1. For the reasons discussed below, we find no basis to reconsider our decision.

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 or information not previously considered. 4 C.F.R. § 21.14(a). The repetition of arguments made during our consideration of the original protest and disagreement with our prior decision does not meet this standard. *Department of Def.--Recon.*, B-416733.2, Mar. 18, 2019, 2019 CPD ¶ 110 at 2.

Leadership's first contention of a factual or legal error in our prior decision stems from the requestor's claim that "GAO [Government Accountability Office] allowed the Agency to withhold information that we had properly and timely requested which would have supported our argument against the dismissal." Req. for Recon. at 1. Specifically, Leadership maintains that our Office did not require the agency to produce documents to clarify an alleged discrepancy between the \$61,288,781 award price listed in the debriefing provided to Leadership and the \$50,271,379 award price listed on the System for Award Management (SAM.gov). *Id.* According to Leadership, "[t]his discrepancy apparently covered up the fact that the award had been made for the lowest price that had been disclosed in any debriefings that we had received," rather than on a best-value tradeoff basis as provided for in the solicitation. *Id.*

Generally, a requestor's disagreement with decisions regarding document release during the course of a protest is not, by itself, a ground for reconsideration of a prior decision. *AeroSage LLC--Recon.*, B-414314.3, July 24, 2017, 2017 CPD ¶ 232 at 4; *Mine Safety Appliances Co.--Recon.*, B-242379.4, Apr. 24, 1992, 92-1 CPD ¶ 389 at 4. As our Office has explained, because the issues involved in document disputes usually do not relate directly to claimed errors of law or fact in a prior decision, or information

not previously considered, the standard for reconsideration set out in our regulations does not include such disputes. *AeroSage, LLC--Recon.*, B-418292.7, June 16, 2020, 2020 CPD ¶ 197 at 4. Thus, Leadership's complaint that it was denied additional information it requested from the agency does not meet our standard for reversal or modification of our earlier decision.² *Id.*

Leadership's second and third contentions of factual or legal errors in our prior decision relate to the requestor's assertion that our prior decision failed to address all of the arguments in Leadership's response to the agency's dismissal request. Specifically, Leadership argues that "the decision provided no evidence that GAO had completely reviewed our dismissal response, in that there was no response to our argument that the Agency did not consider the Best Value Continuum per FAR [Federal Acquisition Regulation] 15.101-1 when making their best value decision." Req. for Recon. at 1. Similarly, Leadership maintains that "the decision did not address our argument that the Agency failed to differentiate proposals 'to distinguish their relative quality under each stated evaluation factor by considering the degree to which technically acceptable proposals exceed the stated minimum requirements or will better satisfy the Agency's needs.'" *Id.* The purported failure of our prior decision to address these various best-value arguments led Leadership "to believe that the decision was just a regurgitation of the Agency and Intervenor erroneous arguments that we 'wanted the evaluation to be performed differently than the RFP required.'" *Id.*

Contrary to Leadership's contention, our decision specifically addressed the protester's various best-value arguments. With respect to Leadership's assertion "that the evaluation did not provide a basis for the Marine Corps to 'differentiate one offer from another,'" we noted that "what the record actually shows is that the evaluation identified significant differences under each of the three factors that resulted in different ratings under all three factors for Leadership and Cognito." *Leadership Performance and Strategies, LLC, supra* at 3 (citing Protest at 3). Regarding Leadership's argument that the agency had failed to conduct a tradeoff, we found:

To the contrary, the selection as summarized in the debriefing submitted by Leadership shows that its own quotation was recognized for its "thorough approach and understanding of the [contract] requirements," its neutral past performance rating was based on a lack of recent relevant past performance, and its higher price. The tradeoff rationale was then based on the evaluation of Cognito's proposal under "all non-price factors

² In any event, the record shows that Leadership's request for additional documents was not relevant to the resolution of the agency's request for dismissal. See Dkt. No. 12. That is, the assigned attorney reviewed the request and concluded the requested clarifying documents went to the merits of Leadership's underlying protest, and did not relate to whether the protest presented sufficient factual and legal information to satisfy the requirements of our regulations, which was the question being resolved at the request for dismissal stage. *Id.*

as well as its fair and reasonable pricing, [which] ma[de] Cognito the 'best value' for the Government.”

Id. (citing Req. for Additional Submissions, attach. Debrief).

Ultimately, we concluded that Leadership’s protest did not include sufficient information to establish a factual basis for the protester’s contention the agency violated applicable procurement laws or regulations, because the solicitation specified the evaluation would be conducted under three factors (management and staffing, past performance, and price), and the debriefing documentation submitted by Leadership as the primary support for its protest allegations reflected an evaluation that was consistent with the solicitation. *Leadership Performance and Strategies, LLC, supra* at 3-4. Our decision noted that to the extent Leadership was arguing the agency “erred by not performing separate assessments of what it calls individual elements within the management and staffing factor”--WBS and risk analysis--Leadership had not shown the solicitation required such an assessment. *Id.* at 3. Rather, the solicitation showed “there were no subfactors under the management and staffing factor,” and we dismissed the protest, accordingly. *Id.* at 2 n.1. In this regard, the repetition of arguments made during our consideration of the original protest and disagreement with our decision do not meet the standard to request reconsideration.³ 4 C.F.R. § 21.14(c); *Epsilon Sys. Solutions, Inc.*, B-414410.3, Sept. 20, 2017, 2017 CPD ¶ 292 at 3.

Leadership’s fourth and final contention of a factual or legal error in our prior decision stems from the requestor’s stated belief that “the GAO timeline for the decision was compressed and did not provide time for due process of our arguments.” Req. for Recon. at 2. Specifically, Leadership represents “the Agency took 12 days to prepare a Dismissal Request, we were given 48 hours to prepare a response and GAO provided their decision in less than 24 hours.” *Id.* (citing Dkt.).

³ We note that even if our prior decision had not specifically addressed some of the arguments raised by Leadership, a lack of substantive discussion in a decision is not indicative of an error of fact or law. *Analytical Solutions by Kline, LLC*, B-417161.3, July 11, 2019, 2019 CPD ¶ 398 at 4. Although our Office reviews all issues raised by protesters, our decisions may not necessarily address with specificity every issue raised; this practice is consistent with the statutory mandate that our bid protest forum provide for the “inexpensive and expeditious resolution of protests.” *Id.*; 31 U.S.C. § 3554(a)(1). In further keeping with our mandate, our decisions have consistently explained that our Office does not issue decisions in response to reconsideration requests solely to address a protester’s dissatisfaction that a decision does not address each of its protest issues. *Access Interpreting, Inc.--Recon.*, B-413990.2, June 12, 2018, 2018 CPD ¶ 224 at 4; *Epsilon Sys. Solutions, Inc.--Recon.*, *supra* at 4. Thus, to the extent that Leadership believes our prior decision was flawed because it did not specifically address each and every one of the protester’s arguments, this does not warrant reversing or modifying the decision. *AeroSage LLC--Recon.*, B-414314.3, *supra* at 2.

The record confirms Leadership's understanding of the sequence of events--the protest was filed on Thursday, December 5, 2024; the agency filed its dismissal request 12 days later on Tuesday, December 17; we required the protester to respond 2 days later on Thursday, December 19; and we issued our decision dismissing the protest the next day, December 20. Dkt. Nos. 1, 9, 10, 14, 15. The requestor, however, does not--and cannot--reference any provision within our regulations or a decision from our Office that supports the proposition that this timeline for resolution of the agency's dismissal request was in some way unreasonable or improper.

Rather, in keeping with our statutory mandate to resolve protests expeditiously and to issue decisions on protests within 100 calendar days, our guide to bid protests advises parties participating in our forum that "[i]t is important for requests for dismissal to be filed as soon as possible after the protest is filed," and that "GAO will promptly address" dismissal requests. *Bid Protests at GAO: A Descriptive Guide*, GAO-18-510SP (10th ed. 2018), at 16; 31 U.S.C. § 3554 (a)(1); 4 C.F.R. § 21.9(a). Similarly, our regulations set forth that: "An agency or intervenor which believes that the protest or specific protest allegations should be dismissed before submission of an agency report should file a request for dismissal as soon as practicable." 4 C.F.R. § 21.3(b).

The protester's complaints about the agency's compliance with our regulations by filing its dismissal request "as soon as practicable," our establishment of a briefing schedule permitting us to "promptly address the dismissal request," and our subsequent prompt resolution of the dismissal request, as provided for in our guide to bid protests, reflect, in essence, the protester's dissatisfaction with the processes our Office employs to ensure we provide a forum for the expeditious and efficient resolution of bid protests. Such dissatisfaction is not reflective of a denial of due process or of any error of fact or law warranting reversal or modification of our prior decision. See e.g., *Monbo Group Int'l--Recon.*, B-420976.2, Oct. 17, 2022, 2022 CPD ¶ 261 at 3 (finding that protester's disagreement with our Office's expectation that all protesters, even those not represented by counsel, must comply with our regulations, did not demonstrate that our prior decision contained any error of law or presented information not previously considered); *Urban Indian Council, Inc.--Recon.*, B-225955.2, May 12, 1987, 87-1 CPD ¶ 500 at 3-4 (finding that dismissal of an untimely filing does not constitute denial of due process, noting that due process has not "ever been construed to mean that a party's case must be heard regardless of that party's failure to comply with a forum's reasonable filing requirements").

In sum, while Leadership characterizes its arguments as evidence of errors of fact or law, the arguments amount to nothing more than disagreement with our prior decision,

which does not meet our standard for reversing or modifying that decision. *Department of Def.--Recon., supra* at 4.

The request for reconsideration is denied.

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