



Decision

Matter of: Vox Optima, LLC--Reconsideration

File: B-423661.3

Date: September 3, 2025

Jonathan Bozek for the requester.
Howard B. Rein, Esq., Department of the Navy, for the agency.
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GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration of prior decision dismissing protest because the protester was not an interested party due to the existence of an intervening offer is denied where the requesting party has not shown that our decision contains either errors of fact or law or information not previously considered that warrants reversal or modification of the decision.

DECISION

Vox Optima, LLC, a woman-owned small business of Tijeras, New Mexico, requests reconsideration of our decision in *Vox Optima, LLC*, B-423661, July 15, 2025 (unpublished decision), in which we dismissed the protest because the requester was not an interested party. The requester contends that our Office erred in dismissing the protest because the agency withheld information pertinent to the protest, failed to implement a stay of performance, and provided a *post hoc* rationale for why the requester's proposal was unacceptable. The requester further alleges improper recruitment of its personnel.

We deny the request for reconsideration.

BACKGROUND

The requester filed a protest with our Office challenging the issuance of order No. N6449825F5007 to Red Carrot, Inc., a woman-owned small business of Miami, Florida, under Red Carrot's General Services Administration multiple award schedule (MAS) contract pursuant to request for proposals (RFP) No. N6449825R4001, issued by the Department of the Navy, Naval Sea Systems Command, for commercial

corporate communications services for the Naval Surface Warfare Center Philadelphia Division in Philadelphia, Pennsylvania. *Vox Optima, supra* at 1. The requester, which is the incumbent contractor, alleged that the agency misevaluated Red Carrot's proposal as acceptable and selected it for award at a price of \$3.1 million, and that efforts made by Red Carrot to recruit incumbent employees were improper.¹ *Id.*

The agency requested dismissal of the protest, arguing that the requester was not an interested party because it would not be next in line for award even if its protest was sustained. *Id.* at 2. In that regard, the agency disclosed that a third firm had submitted an acceptable offer at a lower price than the requester's evaluated price of \$4.7 million, and stated that the RFP provided for the order to be issued to the firm that submitted the lowest-priced technically acceptable offer. *Id.* Because the requester had not raised any challenge to the evaluation of the intervening offer, we concluded that the requester lacked the direct economic interest required to maintain a protest, as even if the requester prevailed on its protest allegations, the third firm would be next in line to receive the order. *Id.* We therefore dismissed the protest. *Id.*

This request for reconsideration followed.

DISCUSSION

To obtain reconsideration, our Bid Protest Regulations require that the requesting party 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). The repetition of arguments made during our consideration of the original protest and disagreement with our decision do not meet this standard. 4 C.F.R. § 21.14(c); *Epsilon Sys. Sols., Inc.*, B-414410.3, Sept. 20, 2017, 2017 CPD ¶ 292 at 3.

As discussed above, we dismissed the requester's protest because the requester was not an interested party due to the existence of an intervening offeror that would have been next in line to receive the order even if the requester's protest were sustained. Pertinent to that conclusion, the requester contends here that the agency failed to disclose the existence of that intervening offer, which the requester argues "violated debriefing requirements under [Federal Acquisition Regulation (FAR) section] 15.506(d)(2)" and "directly impacted GAO's interested party analysis[.]" Req. for Recon. at 2. This argument provides no basis to grant the request for reconsideration.

In the underlying protest, the requester provided copies of its correspondence with the agency after the agency had made its source selection decision. Those documents show that, on June 12, 2025, the agency notified the requester that the agency had

¹ The requester also protested the terms of the second amendment to the RFP, a challenge we dismissed as untimely filed because it was not filed prior to the closing time for submission of revised proposals. *Vox Optima, supra* at 1 n.1.

issued the order to Red Carrot. Protest, encl. 6, Unsuccessful Offer Notice. The following day, the requester asked the agency to provide it with a debriefing. Protest, encl. 7, Req. for Debriefing. On June 17, the agency responded, stating that it was providing a brief explanation of the basis for its source selection decision in accordance with FAR subsection 8.405-2(d). Protest, encl. 8, Brief Explanation at 1. The agency provided the ratings assigned to the proposals submitted by the requester and Red Carrot, as well as their proposed prices. *Id.* The agency stated that it had selected Red Carrot's proposal in accordance with the RFP's lowest-priced, technically acceptable basis for award. *Id.* The brief explanation contained no discussion of the proposal submitted by the intervening offeror. *See id.*

On the same day it received the brief explanation, the requester asked whether the agency would consider an oral debriefing, stating that it had additional questions for the agency. Protest, encl. 9, Resp. to Brief Explanation. The agency responded shortly thereafter, stating that it had provided a brief explanation in accordance with FAR part 8. Protest, encl. 10, Reply to Resp. to Brief Explanation. The agency stated that, while the requester's proposal had been found technically acceptable, it was higher-priced than Red Carrot's proposal and therefore not selected. *Id.* This reply also contained no discussion of the proposal submitted by the intervening offeror. *See id.*

The requester argues that the agency's failure to disclose the existence of a third technically acceptable offer in the correspondence detailed above violated FAR subsection 8.405-2(d), contending that the regulation "explicitly incorporates FAR [section] 15.506(d), which requires agencies to disclose the overall ranking of all offerors, the evaluation of significant proposal elements, and provide reasonable responses to relevant questions." Req. for Recon. at 1. The requester contends that this omission "directly impacted GAO's interested party analysis[.]" *Id.* at 2.

We understand the requester's contention to be that our decision dismissing the protest was in error because it did not consider the alleged violation of FAR subsection 8.405-2(d) arising from the failure to disclose information required by FAR section 15.506(d). Contrary to the requester's argument, however, FAR subsection 8.405-2(d) does not--explicitly or otherwise--incorporate FAR section 15.506(d), which prescribes the content of a debriefing. *See FAR 8.405-2(d).* Indeed, as we have noted, procurements such as this one that were conducted pursuant to the procedures set forth under FAR subpart 8.4 do not require the agency to provide a formal debriefing; rather, those procedures contemplate the agency offering only a "brief explanation," which, as noted above, was provided on June 17. *Ecology Mir Grp., LLC*, B-422881, Sept. 12, 2024, 2024 CPD ¶ 221 at 4 (citing FAR 8.405-2(d)); *see also USGC Inc., B-400184.2 et al.*, Dec. 24, 2008, 2009 CPD ¶ 9 at 9 n.8 (explaining that procurements conducted under FAR subpart 8.4 do not provide for agency debriefings). The requester's argument therefore does not demonstrate any error supporting reconsideration of the dismissal of the protest.

Furthermore, the fact that the agency did not disclose the existence of an intervening offer in its brief explanation also provides no basis to grant the request for

reconsideration. The record in the underlying protest reflects that the agency provided notice of the intervening offer as part of its request for dismissal of the protest. See Req. for Dismissal at 2-4. Where there is an intervening offeror who would be in line for the award if the protester's challenge to the award were sustained, the intervening offeror has a greater interest in the procurement than the protester, and we generally consider the protester's interest too remote to qualify as an interested party. *DCR Servs. & Constr., Inc.*, B-420179.2, B-420179.3, Apr. 28, 2022, 2022 CPD ¶ 109 at 7.

Even after learning of the existence of the intervening offer, the requester has not challenged the acceptability of that offer and therefore has not provided a basis to conclude that it is an interested party to maintain the protest. *Cf. Professional Sols. Delivered, LLC*, B-422036.2 *et al.*, Mar. 21, 2024, 2024 CPD ¶ 84 at 3-4 (where agency first disclosed existence of intervening offer in connection with request for dismissal, protester timely challenged evaluation of intervening offer and therefore was an interested party); *Criterion Sys., Inc.*, B-419749 *et al.*, July 21, 2021, 2021 CPD ¶ 261 at 5-6 (same). Accordingly, there is no basis to reconsider our conclusion that the requester was not an interested party and our dismissal of the protest for that reason.

The requester's remaining arguments--pertaining to the agency's alleged failure to implement a stay of performance, the agency's proffering of a *post hoc* rationale that the requester's proposal was technically unacceptable, and Red Carrot's recruitment of the requester's personnel--have no bearing on our conclusion that the requester was not an interested party to maintain its protest because of the existence of an intervening offer. We therefore need not address them here.

The request for reconsideration is denied.

Edda Emmanuelli Perez
General Counsel