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Decision

Matter of: Amentum Parsons Logistics Services LLC--Recon.

File: B-422697.14

Date: September 18, 2025

Kevin P. Connelly, Esq., Kelly E. Buroker, Esq., Jeffrey M. Lowry, Esq., and Michael P. Ols, Esq., Vedder Price P.C., for the requester.

Seth H. Locke, Esq., Wilmer Cutler Pickering Hale and Dorr LLP, for KBR Services LLC, the intervenor.

Wade L. Brown, Esq., Department of the Army, for the agency.

Edward Goldstein, Esq., and Kenneth E. Patton, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration is dismissed where arguments that could have been made during initial consideration of the protest were not asserted until the request for reconsideration.

DECISION

Amentum Parsons Logistics Services LLC (APLS), of Arlington, Virginia, requests reconsideration of our decision in *Amentum Parsons Logistics Services LLC*, B-422697.3 *et al.*, Oct. 4, 2024, 2024 CPD ¶ 237.¹ In that decision, we dismissed APLS's protest, finding that it was not an interested party to challenge the issuance of a task order under request for task order proposals (RFTOP) No. W519TC-23-R-0014, issued by the Department of the Army, U.S. Army Materiel Command, for Army prepositioned stock (APS) support services at locations in Europe (APS-2). APLS requests that we reconsider our prior decision because it was based on a clear error of law.

¹ APLS is a joint venture comprised of five members: Amentum Services, Inc., the majority member; PAE Applied Technologies, Inc.; PAE Government Services, Inc.; Parsons Government Services, Inc.; and Parsons Government Services International, Inc. Previously, the joint venture was known as PAE-Parsons Global Logistics Services LLC (P2GLS); the contemporaneous record refers to the requester as APLS, Amentum, and P2GLS. For consistency, this decision refers to the requester as APLS.

We dismiss the request.

BACKGROUND

In its protest, APLS, which includes the incumbent contractor Amentum Services, Inc. as the majority member of the joint venture, challenged the Army's evaluation of proposals and the decision to issue the task order to KBR Services, LLC (KBR) of Houston, Texas for APS-2, covering locations in Europe, under the fifth iteration of the Army's Logistics Civil Augmentation Program (generally referred to as "LOGCAP V").² In this regard, APLS challenged various aspects of the Army's evaluation of its proposal and KBR's proposal, arguing that the technical, past performance, and price evaluations were unreasonable, and that the tradeoff analysis and source selection decision were inadequately documented and flawed. Protest at 2-3.

The solicitation provided for award on a best-value tradeoff basis, considering the following evaluation factors, in descending order of importance: technical/management, past performance, small business participation, and cost/price.³ RFTOP amend. 9 at 26-28. The solicitation further stated that all factors other than cost/price, when combined, were significantly more important than cost/price. *Id.* at 28.

As relevant here, under the small business participation factor, the solicitation established requirements for the use of small business subcontractors; required each offeror to submit a small business commitment document addressing those requirements; advised that each proposal would be evaluated under this factor on an acceptable/unacceptable basis; and stated that a proposal must receive a rating of acceptable to be eligible for award. *Id.* at 37-39; see AR, Tab 11, RFTOP exh. G, Small Business Participation Commitment Document (SBPCD). The solicitation also identified

² The Army used the RFTOP to award four different task orders--one for each command region: APS-2 (Europe); APS-3 (South Carolina), APS-4 (Japan and Korea), and APS-5 (Kuwait). Agency Report (AR), Tab 16, RFTOP amend. 9 at 1-2. Offerors were not required to submit proposals for all four locations, and the solicitation stated that the agency would evaluate each proposal separately. *Id.* at 3, 27. The Army awarded APLS task orders for three of the four regions--APS-3, APS-4, and APS-5--and unsuccessful offerors protested these awards at GAO. *KBR Servs., LLC; Vectrus Sys. Corp.*, B-422697 *et al.*, Oct. 4, 2024, 2024, CPD ¶ 203; *KBR Servs., LLC; Vectrus Sys. Corp.*, B-422697.2 *et al.*, Oct. 4, 2024, 2024, CPD ¶ 241; *Vectrus Sys., LLC*, B-422697.6, B-422697.10, Oct. 4, 2024, 2024 CPD ¶ 242.

³ The solicitation was amended nine times and references are to the last amended version of the solicitation. For more detail about the procurement, see *Amentum Parsons Logistics Services LLC*, B-422697.3 *et al.*, *supra*. Citations to the record incorporate documents produced in the underlying protest and use the Adobe PDF pagination of the documents produced.

small business participation goals based on task order value and stated that for a proposal to be rated acceptable under this evaluation factor, it must meet or exceed each of the small business subcontracting goals or explain why the goals were not met. RFTOP amend. 9 at 38-40. In addition, under the cost/price factor, the solicitation required each offeror to submit detailed subcontractor costs in its cost/price proposal. *Id.* at 18-26.

APLS timely submitted its proposal, including a small business participation commitment document (SBPCD). The agency also received proposals from the other three LOGCAP V contract holders on or before the solicitation closing date and evaluated them. Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 21. The Army established a competitive range including all four proposals, engaged in several rounds of discussions, and requested final proposal revisions. *Id.* at 21-22. The Army evaluated APLS's proposal as acceptable with regard to the small business participation factor and thus did not raise the issue of small business subcontractors in discussions with APLS. *Id.* at 22. Thereafter, the agency selected KBR for award for \$306,849,040 and APLS filed its protest.⁴

In its protest, APLS asserted it was an interested party because it was one of four LOGCAP V prime contract holders and "an actual offeror whose direct economic interest [had] been affected by the improper award of the task order to KBR." Protest at 5; 1st Supp. Protest at 2. APLS further asserted that if the agency had not conducted a flawed evaluation, the agency would have selected APLS for award and therefore, APLS was an interested party under 4 C.F.R. § 21.0(a). Protest at 5; 1st Supp. Protest at 2.

The Army did not challenge APLS's assertion that it was an interested party and filed an agency report defending its evaluation of proposals and selection of KBR for award. In its report, the agency explained that both KBR and APLS were deemed acceptable for the small business participation factor. COS/MOL at 22; see also AR, Tab 102, Source Selection Decision Document (SSDD) at 11, 15 (finding that after discussions, all offerors received ratings of acceptable for the small business participation factor and "there is no meaningful distinction between the four offerors" for this factor).

⁴ The awarded value of the task order at issue exceeds \$25 million. Accordingly, at the time APLS's protest was filed on June 26, 2024, this procurement was within our jurisdiction to hear protests related to the issuance of orders under multiple-award indefinite-quantity, indefinite-delivery (IDIQ) contracts that were awarded under the authority of title 10 of the United States Code. 10 U.S.C. § 3406(f)(1)(B); see National Defense Authorization Act for Fiscal Year 2025, Pub. L. No. 118-159, 138 Stat. 1773 § 885 (2024) (amending jurisdictional threshold to \$35 million for protests of orders placed under IDIQ contracts awarded under authority of title 10, effective December 23, 2024); *Technatomy Corp.*, B-405130, June 14, 2011, 2011 CPD ¶ 107 at 5-6 (changes to jurisdiction will not be given retroactive effect, absent specific statutory direction).

KBR filed comments on the agency report arguing that the agency should have found APLS's proposal unacceptable under the small business participation factor and that APLS was therefore not an interested party to protest. KBR Comments at 44-45. In this connection, KBR asserted that the RFTOP required small business subcontractors to perform two percent of the task order work, and even though APLS submitted a small business participation commitment document identifying small business firms that it would use to meet this requirement, it failed to submit any other required information about its small business subcontractors. *Id.* KBR argued that APLS's proposal did not comply with the solicitation's material requirements related to small business participation goals and therefore, its proposal was unacceptable. In KBR's view, the agency should have found APLS's proposal ineligible for award. *Id.*

Minutes after KBR submitted its comments, APLS also submitted comments on the agency report and raised additional protest grounds. These new protest grounds were based on information provided in the agency report and challenged additional aspects of the Army's evaluation of KBR's past performance, the cost realism analysis, the best-value tradeoff analysis, and the source selection decision. Comments & 2nd Supp. Protest at 16-22, 24-25, 27-37, 40-43. APLS's second supplemental protest did not address its status as an interested party.

Our Office agreed to the parties' proposed briefing schedule to address the supplemental protest grounds. Electronic Protest Docketing System (Dkt.) No. 32 (establishing a deadline of 5:30 p.m. Eastern Time, August 19, 2024, for comments on the supplemental agency report); Dkt. No. 33. The Army filed its supplemental agency report responding to APLS's new protest grounds, but did not address or respond to KBR's challenge to APLS's interested party status. KBR and APLS submitted comments on the supplemental agency report.

In KBR's comments on the supplemental agency report, KBR reasserted its previous argument that APLS was not an interested party because APLS's proposal failed to comply with the RFTOP. KBR Supp. Comments at 21. Again, KBR argued the agency should have assigned APLS's proposal a rating of unacceptable under the small business participation factor because parts of APLS's proposal stated it would meet the small business requirements while other sections indicated that APLS would not use small business subcontractors. *Id.* KBR argued that the inconsistencies in APLS's proposal should have resulted in a rating of unacceptable and a determination that APLS was ineligible for award. *Id.*

APLS also submitted comments in response to the Army's supplemental agency report.⁵ Generally, APLS reiterated, adopted, and incorporated by reference its

⁵ For the comments on the supplemental agency report, KBR and APLS again submitted filings within a short period of each other.

arguments from earlier filed documents. APLS Supp. Comments at 3 n.3. APLS did not address KBR's interested party arguments in its comments.⁶

On October 4, 2024, our Office issued a decision dismissing APLS's protest on the basis the protester did not qualify as an interested party because it would not be in line for award even if its protest were to be sustained. In this connection, we concluded that "APLS's proposal contained internal inconsistencies regarding compliance with the solicitation's material subcontracting requirements, rendering the proposal ineligible for award." *Amentum Parsons Logistics Services LLC, B-422697.3 et al., supra* at 5. We found that although part of APLS's proposal represented it would comply with the RFTOP small business participation requirements, its technical/management proposal and its cost/price proposal did not include the required information to support the small business representations. *Id.* at 5-6. We concluded that "the agency was required to either resolve these inconsistencies (which it did not) or evaluate APLS's proposal as ineligible for award." *Id.* at 6. We determined that because the agency did not have a reasonable basis for assigning a rating of acceptable to APLS's proposal regarding its compliance with the solicitation's small business requirements, APLS did not qualify as an interested party to challenge the agency's evaluation of KBR's proposal. *Id.*

APLS subsequently filed this timely request that our Office reconsider our decision.

DISCUSSION

In its request for reconsideration, APLS asserts that our decision contains a clear error of law. APLS argues that our decision deprived APLS of its rights under our precedent and under the Competition in Contracting Act (CICA). Req. for Recon. at 2. APLS contends that "GAO's dismissal decision denied APLS its right--under GAO precedent--to address a perceived conflict that was present during earlier discussions" where the Army had not perceived a conflict and had not addressed the conflict during discussions. *Id.* at 1-2. APLS also contends that the dismissal decision denied APLS its right "to protest both its exclusion from the competition on the basis of a material noncompliance and the Army's actual rationale for its award decision" under CICA. *Id.* at 2. APLS argues that our "decision is not supported by, and is fundamentally at odds with, [GAO] precedent governing the rights and obligations of agencies and contractors when discussions are held." *Id.* In this connection, APLS asserts it "is an interested party to challenge KBR's award because the agency found [APLS's] proposal to be acceptable and, before the agency could exclude APLS from consideration, it would be required to re-open discussions." *Id.* As discussed below, we dismiss 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

⁶ APLS did not seek leave from GAO to address any arguments made by KBR in its comments filed in response to the agency report.

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 fact; that is, but for the error, our Office would have likely reached a different conclusion as to the merits of the protest. *Department of Justice; Hope Village, Inc.--Recon.*, B-414342.5, B-414342.6, May 21, 2019, 2019 CPD ¶ 195 at 4.

To provide a basis for reconsideration, additional information not previously considered must have been unavailable to the requesting party when the initial protest was being considered. *Department of Commerce--Recon.*, B-417084.2, Mar. 21, 2019, 2019 CPD ¶ 112 at 2. Failure to make all arguments or submit all information available during the initial protest undermines the goals of our bid protest forum--to produce fair and equitable decisions based on consideration of all parties' arguments on a fully developed record--and cannot justify reconsideration of our prior decision. *Department of Veterans Affairs--Recon.*, B-405771.2, Feb. 15, 2012, 2012 CPD ¶ 73 at 4. We have repeatedly warned that parties that withhold or fail to submit all relevant evidence, information, or analyses for our consideration do so at their own peril. *Department of the Army--Recon. & Clarification of Remedy*, B-419150.2, Mar. 30, 2021, 2021 CPD ¶ 133 at 4.

APLS contends our Office erred in dismissing APLS's protest on the basis that APLS was not an interested party to challenge the award to KBR. APLS argues it was next in line for award and that our decision was based on a finding not made by the Army that APLS was ineligible for award. *Req. for Recon.* at 8-9. Specifically, APLS asserts that while the Army was aware of the potential conflict within the proposal regarding APLS's proposed commitment to small business goals, it evaluated APLS's proposal as acceptable under the small business participation factor. *Id.* at 13-14. The Army did not raise this issue with APLS during discussions and it defended its evaluation of APLS in the other protests filed against the Army's award to APLS for the other regions. *Id.* at 13-15.

APLS argues it is an interested party with a substantial chance for award because if its proposal were deemed unacceptable under the small business factor, the agency would be required to re-open discussions. *Id.* at 14. In APLS's view, if there was an error with the Army's evaluation of APLS under the small business participation factor, then "the Army would be required to re-open discussions to permit APLS an opportunity to address the small business participation conflict" because the Army had not conducted required discussions with APLS on the small business participation factor. *Id.* APLS contends that it was an error of law for our Office to essentially remove it from consideration on the basis of proposal inconsistencies when the agency could not have removed it from the competition for the same inconsistencies without holding discussions. *Id.* at 14-15. APLS avers that here APLS's proposal is not ineligible for award because the Army did not exclude APLS from the competition and the Army would be required to re-open discussions to address the small business participation inconsistencies before making a new award. *Id.*

KBR seeks dismissal of APLS's request for reconsideration, arguing that the request fails to state a valid basis for reconsideration "because it is based on facts and/or legal argument that APLS could have raised during the original protest but did not." KBR Req. for Dismissal at 1. KBR contends that it raised the issue of APLS's interested party status in its comments on the agency report (and in its comments on the supplemental agency report) and APLS failed to respond to KBR's dismissal arguments. *Id.* at 2. As APLS had the opportunity to make these arguments during the original protest and did not, KBR argues that APLS's arguments do not raise a valid basis for reconsideration. *Id.* at 3.

The Army concurred with KBR's request for dismissal, arguing that the burden was on the protester to establish its interested party status. Army Resp. to KBR Req. for Dismissal at 5. In this regard, the Army agreed with KBR's arguments and pointed out that even though APLS was on notice that KBR challenged APLS's interested party status in its comments, "APLS never countered (nor so much as acknowledged) the issue during the underlying protest." *Id.* The Army further argues that it is "of no moment" that GAO did not request APLS to respond to KBR's arguments because APLS had the opportunity to respond to KBR's argument in the initial protest in additional filings made after KBR raised the issue in its comments but APLS decided not to do so. *Id.* at 5 n.1.

APLS disputes that its request for reconsideration is based on facts and legal arguments that it could--and should--have raised earlier. APLS Resp. to KBR Req. for Dismissal at 4. APLS argues that none of KBR's filings or the agency's filings, which also failed to address KBR's interested party challenge, required APLS to demonstrate how it was an interested party in the event its proposal did not materially comply with the solicitation requirements. *Id.* at 5. APLS also contends that our Office did not require or ask APLS to respond to KBR's interested party arguments. *Id.* Moreover, in APLS's view, the Army's concurrence with KBR's request for dismissal of the reconsideration request, after vigorously defending its evaluation of APLS in the protests challenging the Army's award to APLS for the other regions, "is opportunistic and meritless." *Id.* at 6.

APLS's arguments presented here for the first time in its request for reconsideration were available to it during the initial protest proceedings. In APLS's protest filed June 28 and in its first supplemental protest filed July 1, APLS asserted it was an interested party because it was a LOGCAP V contract holder and an actual offeror whose economic interest was directly affected by the Army's flawed evaluation and source selection decision. Protest at 5; 1st Supp. Protest at 2. On August 5, KBR challenged APLS's interested party status in its comments on the agency report, arguing that APLS was not an interested party with standing to challenge the agency's source selection decision because APLS was ineligible for award. KBR Comments at 44-45. While APLS filed comments on the supplemental agency report on August 19 and a second supplemental protest, APLS did not address KBR's challenge to its interested party status or include information establishing its interested party status for the second supplemental protest. See Comments and 2nd Supp. Protest. KBR again

challenged APLS's interested party status on August 19 in its comments on the supplemental report. KBR Supp. Comments at 21.

As APLS recognizes, our Bid Protest Regulations provide that "GAO may request or permit the submission of additional statements by the parties and by other parties participating in the protest as may be necessary for the fair resolution of the protest." APLS Resp. to KBR Req. for Dismissal at 5 (quoting 4 C.F.R. § 21.3(j)). While it is true that "[t]he agency and other parties must receive GAO's approval before submitting any additional statements" and that "GAO reserves the right to disregard material submitted without prior approval," nonetheless our regulations provide parties with the ability to respond to arguments made at any point and by any party in the protest proceedings by seeking permission to do so. 4 C.F.R. § 21.3(j). Here, APLS did not address KBR's arguments in subsequent filings, nor did it request permission to do so.

Protesters are required to establish their interested party status for all protest grounds. Where APLS's status as an interested party was questioned, it was incumbent upon APLS to address the argument; the protester has the burden to establish it is an interested party. 4 C.F.R. § 21.1(c)(5); see, e.g., *Inspace 21 LLC*, B-410852.4, Apr. 3, 2015, 2015 CPD ¶ 124 at 3 (explaining that when GAO "receive(s) information that calls that interested party status into question, the burden is on the protester to demonstrate its interested party status"). Accordingly, these arguments--offered for the first time in the request for reconsideration--do not provide a basis on which to grant the request for reconsideration.

The request for reconsideration is dismissed.

Edda Emmanuelli Perez
General Counsel