

Decision

Matter of: Mission1st Group, Inc.--Reconsideration

File: B-419369.3

Date: April 29, 2021

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Matthew R. Wilson, Esq., Warren A. Reardon, Esq., and Robert J. Blanch, Jr., Esq., Department of the Army, for the agency.
Scott H. Riback, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration is dismissed where requesting party fails either to demonstrate that our prior decision contains errors of fact or law, or to present new information not previously considered that would warrant reversal or modification of prior decision.

DECISION

Mission1st Group, Inc. (M1), of Arlington, Virginia, requests reconsideration of our decision in *Mission1st Group, Inc.*, B-419369.2, Jan. 25, 2021, 2021 CPD ¶ 65, in which we denied its protest against the issuance of a task order to Business Mission Edge, of Bethesda, Maryland, under request for proposals (RFP) No. CHESSTES-3S #330932, issued by the Department of the Army, U.S. Army Materiel Command, for information technology engineering and installation support services to the 335th Signal Command. M1 requests that we reconsider our prior decision in light of new information not previously considered.

We dismiss the request.

Among other things, M1, the previous incumbent contractor for this requirement, argued in its protest that the agency's source selection official unreasonably discounted certain observations made by the lower-level evaluators concerning M1's response to the COVID-19 pandemic during its performance of the predecessor contract. In this connection, the record from the prior protest shows that the lower-level evaluators identified what they described as a "positive observation" relating to M1's reaction to the COVID-19 pandemic during performance of the prior contract. Agency Report (AR),

exh. 26, Technical Evaluation Report, at 6. The evaluators did not separately assign M1's proposal a strength or "positive observation" for COVID-19-related mitigation measures identified by M1 in the staffing and retention plan included in its proposal for performance of the solicited requirement going forward. However, the evaluators did make reference to those measures in their evaluation report, and assigned the M1 proposal an overall rating of outstanding under the solicitation's staffing and retention plan evaluation subfactor. *Id.* at 6-7.

In making the selection decision, the agency's source selection official stated that, while she took into consideration the technical evaluators' observations relating to COVID-19, she concluded that, since the RFP made no mention of COVID-19 observations, and also because COVID-19 was a temporary consideration, she did not allow the observations to positively or negatively affect her selection decision. AR, exh. 29, Source Selection Decision, at 12.

In its protest, M1 argued that, had the agency performed a reasonable evaluation, it would have assigned its proposal a strength under the staffing and retention plan subfactor for its proposed COVID-19 mitigation approach included in its proposal. M1 also argued that the agency should have assigned a weakness to the awardee's proposal for its alleged lack of a COVID-19 mitigation plan.

In denying this aspect of the protest, we found that the source selection authority had acted reasonably in declining to assign unique strengths and weaknesses for proposed COVID-19-related staffing considerations. *Mission First Group, Inc. supra* at 13-14. We also pointed out that, inasmuch as the source selection authority agreed with the evaluators about the assignment of an outstanding rating to the M1 proposal under the staffing and retention subfactor--the highest possible rating under the evaluation scheme--it was not apparent that the assignment of an additional strength to its proposal under that subfactor would have materially affected M1's competitive position. *Id.* at 14 n.6.

In its request for reconsideration, M1 first presents what it characterizes as "new information" relating to COVID-19 considerations. Specifically, M1 argues that the virus variants that have emerged during 2021 demonstrate that the agency failed to assign adequate importance to the offerors' proposed COVID-19 mitigation plans during its evaluation of proposals and source selection decision. M1 also argues that the RFP required the agency to consider the impact of COVID-19-related staffing strategies under several of the RFP's other non-price evaluation subfactors, and also under the RFP's price evaluation factor.

We dismiss these aspects of M1's request for reconsideration. In order to obtain reconsideration, a requesting party must show either that our prior decision contains errors of fact or law, or present new information not previously consider that would warrant reversal or modification of our earlier decision. *Department of Housing and Urban Development--Recon.*, B-414459.5, Sept. 26, 2018, 2018 CPD ¶ 341 at 4. M1's request fails to meet this standard.

First, the term “new information” used in our regulations and decisions does not have the meaning M1 contends. In the context of a protest challenging an agency’s evaluation of proposals and source selection decision, new information means contemporaneously available information--in existence at the time of the agency’s selection decision--that could or should have had a material effect on the agency’s evaluation and selection decision. New information does not mean information relating to future events that were unknown or unknowable to the agency during its source selection process.

Unanticipated events--such as global pandemics, earthquakes, hurricanes, avalanches, typhoons, wild fires, volcanic eruptions, or wars--that occur well after an agency’s evaluation of proposals and source selection necessarily can have no bearing on the propriety of an agency’s contemporaneous analysis or decision making. Agencies are not charged with anticipating all imaginable or possible catastrophes that could arise at any point during the performance of a protested contract or task order.

Here, the record shows that the agency’s selection decision occurred on September 25, 2020. All of the information presented by M1 relating to the emergence of the COVID-19 variants was reported well after the agency made its selection decision. For example, M1 directs our attention to news articles dating from the end of January and the beginning of February, 2021, months after the agency made its selection decision. Request for Reconsideration at 9-10. M1 also identifies a Department of State bulletin relating to restrictions identified by the U.S. Embassy in Kuwait that went into effect in late January, 2021. *Id.*

M1 has not explained, and it is not apparent, how it would be possible for agencies to take into consideration events that have not yet transpired in evaluating proposals and making source selection decisions. In short, M1 has failed to present new information of the sort contemplated under our standard for granting a request for reconsideration. We therefore dismiss this aspect of its request.

Second, as to M1’s allegations that the agency also erred in failing to take COVID-19-related concerns into consideration when it evaluated proposals under certain of the solicitation’s remaining evaluation factors and subfactors, these arguments were advanced by M1 for the first time in its request for reconsideration. These allegations amount to an untimely, piecemeal presentation of arguments that should have been, but were not, raised during M1’s original protest. *Department of Commerce--Recon.*, B-417084.2, Mar. 21, 2019, 2019 CPD ¶ 112 at 2-3. We therefore dismiss this aspect of M1s request for reconsideration.

As a final matter, M1 argues that newly available information shows that the awardee is experiencing difficulties hiring personnel for the task order. However, any alleged difficulty the awardee may be experiencing meeting its obligations under the task order

is a matter of contract administration not for consideration by our Office. 4 C.F.R. § 21.5(a). We therefore dismiss this aspect of M1's request for reconsideration.

The request for reconsideration is dismissed.

Thomas H. Armstrong
General Counsel