



Decision

Matter of: The CBE Group, Inc.--Reconsideration

File: B-414220.51

Date: April 19, 2017

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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 concedes that the modification it seeks to Government Accountability Office (GAO) decision would have no impact on the outcome of the decision, and where, in any case, the request relies on an incorrect understanding of prior GAO decisions by the requesting party.

DECISION

The CBE Group, Inc. (CBE), an intervenor in a prior group of protests, requests reconsideration of our decision in General Revenue Corp., et al., B-414220.2, et al., Mar. 27, 2017, 2017 CPD ¶ _____. In that decision, we sustained in part and denied in part the protests of a number of concerns that had challenged the award of multiple contracts by the Department of Education under request for proposals (RFP) No. ED-FSA-16-R-0009 for debt collection services. CBE requests that we reconsider a specific legal conclusion that we reached in our prior decision.

We dismiss the request for reconsideration.

In the background section of our prior decision, we described the evaluation factors included in the solicitation. In describing the RFP's past performance evaluation factor, we stated that it was comprised of two equally-weighted subfactors, relevance and quality. General Revenue Corp., et al., supra, at 4. In support of the conclusion that the subfactors were equally weighted, we stated as follows: "The RFP did not disclose the subfactors' respective weights. Accordingly, they are assumed to be approximately equal in importance. See Bio-Rad Labs., Inc., B-297553, Feb. 15, 2006, 2007 CPD

¶ 58 at 6.” General Revenue Corp., et al., supra. at 4 n.6. In its reconsideration request, CBE takes issue with this conclusion.

CBE states its objection as follows:

GAO’s legal conclusion in footnote 6 seems to us to apply to past performance evaluations, for the first time, GAO’s well-established rule that where a solicitation fails to assign weight among evaluation factors or sub-factors they are assumed to be of approximately equal weight. That normal rule, we think, cannot be applied to the complex, necessarily discretionary and fundamentally unique evaluation of past performance. GAO surely should not establish such a rule in *obiter dictum*.

CBE Request for Reconsideration at 1. CBE requests that we remove the footnote that articulates the rule, and revise the sentence to which it relates.

We dismiss CBE’s request. In order to prevail on a request for reconsideration, the requesting party either must show that our prior decision contains errors of fact or law, or present information not previously considered that would warrant reversal or modification of the prior decision. 4 C.F.R. § 21.14(a); Department of Veterans Affairs--Recon., B-405771.2, Feb. 15, 2012, 2012 CPD ¶ 73 at 3. CBE’s request does not meet this standard for two reasons.

First, CBE itself concedes that the modification to the decision that it seeks would not materially impact the outcome of the prior decision. In an e-mail to the GAO attorney that handled the prior protests, counsel for CBE stated: “We reiterate that we do not think removing footnote 6 and revising the sentence to which it relates would impact GAO’s decision.” E-Mail from CBE’s Counsel to GAO, Mar. 29, 2017. CBE reiterates this view in its request for reconsideration, stating: “We cannot say whether removing footnote 6 and revising the sentence to which it relates would materially impact GAO’s decision in this case.” Request for Reconsideration at 2. Since the modification that CBE requests would, by its own admission, not impact the outcome of the decision, it follows that there would be no purpose served by granting CBE’s request.

Second, and more fundamentally, CBE is simply wrong in its assertion that our Office has not previously applied the rule finding subfactors approximately equal in weight where the solicitation does not state their relative weight in the context of past performance subfactors. Our Office has long applied this rule to past performance evaluation subfactors. See e.g. SOS Interpreting, Ltd., B-287477.2, May 16, 2001, 2001 CPD ¶ 84 at 3-4 (where solicitation did not specify the relative weight of past performance subfactors, our Office found the subfactors approximately equal in weight);

General Security Services Corp., B-280388, B-280388.2, Sept. 25, 1998, 99-1 CPD ¶ 49 at 7-8 (same). CBE is simply incorrect regarding our prior decisions.

The request for reconsideration is dismissed.

Susan A. Poling
General Counsel