Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Docusort, Inc.--Reconsideration

File: B-254852.3

Date: July 18, 1995

Michael E. Waldeck, Esq., and William J. DeBauche, Esq., Niewald, Waldeck & Brown, for the protester.
Behn Miller, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision

DIGEST

Request for reconsideration of prior decision is denied where request contains no facts or legal grounds warranting reversal but merely restates arguments raised earlier and disagrees with the original decision.

DECISION

Docusort, Inc. requests reconsideration of our decision Docusort, Inc., B-254852.2, Feb. 22, 1995, 95-1 CPD ¶ 107, in which we denied its protest against the award of a contract to Lee Associates under request for proposals (RFP) No. KCMO-06-N-93, issued by the United States Department of Agriculture for all labor, equipment, tools, materials, supervision and services necessary to operate the mailroom located at the Agricultural Stabilization and Conservation Service building in Kansas City.

We deny the request for reconsideration.

The RFP provided that contract award would be made to the lowest-priced technically acceptable offeror. In its protest, Docusort argued that the contracting officer had improperly manipulated the price proposal evaluation to prevent Docusort from receiving contract award; specifically, the protester asserted that the contracting officer had improperly excluded Lee's proposed "phase-in" costs from that firm's total price "so that Lee Associates would be the low bidder and so that Docusort would not be awarded the contract."

We denied the protest because we found that contrary to Docusort's assertions, the RFP's terms did not provide for considering the amount of Lee's phase-in costs as a separate element of price. As explained in our decision, because the solicitation contemplated the award of a fixed-price

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contract, and because the RFP did not include any separate contract line item numbers (CLIN) for phase-in costs, there was no basis for adding such costs to any offeror's proposed fixed prices. See MagneTek Nat'l Elec. Coil, B-249625, Dec. 4, 1992, 92-2 CPD ¶ 392 (factors not set forth in solicitation may not be considered by the contracting officer in the evaluation and award decision); Western Publishing Co., Inc., B-224376, Sept. 2, 1986, 86-2 CPD ¶ 249 (price-related factor such as cost of money may only be considered in evaluation if solicitation so specifies). Rather, the successful contractor could only be awarded a contract for the amount proposed on its pricing schedule. Thus, the contracting officer was not legally permitted to--and in fact did not--add this amount to the awardee's proposed price.

In its reconsideration request, Docusort contends that because the RFP required offerors to submit back-up pricing information for each CLIN--including a list of phase-in costs--and because the record contained a memorandum by the contracting officer stating that he proposed to add approximately $8,000 to the awardee's offered price to cover "phase-in" or start-up costs, these costs were in fact required to be considered as part of the price proposal evaluation.

We have already considered and rejected this contention in our prior decision. As explained there, the contracting officer's memorandum does not change the clear terms of the RFP--which did not provide for consideration of phase-in costs as an additional element of the price evaluation. Rather, these costs were only to be enumerated as background information to explain how each contractor arrived at the total price estimate for each fixed-price CLIN set forth in the solicitation's pricing schedule. See RFP section L.4(c)(2)(i), (iii).

Our Bid Protest Regulations require that a party requesting reconsideration show that our prior decision contains either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1995). Here, Docusort has not presented any new facts, evidence, or arguments that were not already considered in our prior decision. Since repetition of arguments made during the original protest do not constitute a valid basis for reconsideration, Docusort's

current request provides no justification for reexamining our earlier decision. See Varec N.V.--Recon., B-247363.7, Mar. 23, 1993, 93-1 CPD ¶ 259.

The request for reconsideration is denied.

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for Robert P. Murphy
General Counsel