



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Allstate Van and Storage, Inc.--Reconsideration

File: B-270744.2

Date: August 20, 1996

Michael J. Radford, Esq., 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 is denied where the request is based on information that was available to, but not proffered by, the protester during consideration of the initial protest, and on mere disagreement with prior decision.

DECISION

Allstate Van and Storage, Inc. requests reconsideration of our decision, Allstate Van and Storage, Inc., B-270744, Apr. 17, 1996, 96-1 CPD ¶ 191, denying its protest of the award of a contract to Pack & Crate Services, Inc. (P&C) under request for proposals (RFP) No. N00244-96-D-5009, issued by the Department of the Navy for residential packing and moving services for military families located in the San Diego, California area.

We deny the request for reconsideration.

In its initial protest, Allstate challenged the award to P&C on the ground that the awardee's offer was both mathematically and materially unbalanced. Allstate argued that the awardee had understated its proposed prices for contract line item number (CLIN) 0001, Complete Outbound services, and offered inflated prices for CLIN 0003, Overflow Outbound services. In this regard, CLIN 0001 required the contractor to survey and pack a service member's household furnishings and belongings into government-provided 196 cubic foot standard shipping containers and ship the goods to the appropriate outbound destination. Under CLIN 0003, any items that would not fit into the CLIN 0001 standard containers--either because they were too large (e.g., motorcycles or oversize sofas), too fragile (e.g., antiques), or undersized (e.g., overflow articles), were to be transported by the contractor to the contractor's local facility for special packing in a contractor-provided box and then reunited with the remaining CLIN No. 0001 containers for shipment to the appropriate outbound destination.

In its protest, Allstate maintained that the services required by CLINs 0001 and 0003 were substantially similar. As such, Allstate contended that the \$103 difference between the awardee's proposed CLIN 0001 price (\$7 per net hundred weight count (NCWT)) and its proposed CLIN 0003 price (\$110 NCWT) demonstrated that P&C's offer was mathematically and materially unbalanced.

After reviewing the agency's and awardee's explanations of the pricing disparity, we concluded that the differences between the awardee's proposed CLIN 0001 and CLIN 0003 prices reasonably could reflect different costs involved in performing these two CLINs. In our view, the record—which included a showing that the awardee's CLIN pricing was consistent with competitive awards made for similar moving services in other contracting regions, including Lemoore, California and Corpus Christi, Texas—demonstrated that the additional special handling, packaging, and shipping involved in dealing with overflow and/or oversize articles under CLIN 0003 reasonably could require a more expensive packaging and moving approach by the contractor because of additional costs necessary to minimize the contractor's risk of damage to the CLIN 0003 items—which are typically higher priced, valuable goods.

On reconsideration, Allstate for the first time requests that this Office "consider one item of additional evidence demonstrating that the arguments and limited evidence offered by the [a]gency and [P&C] were inaccurate, illogical and unreliable." Specifically, in its reconsideration request, Allstate has introduced pricing data from a "late 1995" Camp Pendleton, California procurement which indicates that P&C's proposed prices for its standard packing/moving services CLINs and overflow packing/moving services CLINs differed by only \$10 NCWT per CLIN. Allstate contends that this evidence demonstrates that the awardee's CLIN 0001 and CLIN 0003 prices for this procurement—which, as noted above differ by \$103—are mathematically and materially unbalanced. We will not consider this new evidence as it was not timely presented.

Under our Bid Protest Regulations, a request for reconsideration must specify alleged errors of law made or information not previously considered by our Office that warrants reversal or modification of our decision. 4 C.F.R. § 21.14(a) (1996). In order 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. Ameriko/Omserv-Recon., B-252879.4, May 25, 1994, 94-1 CPD ¶ 341. A party's failure to make all arguments or to submit all information available during the course of the initial protest undermines the goal 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 a prior decision. Id.

In this case, the record clearly shows that Allstate knew about P&C's Camp Pendleton CLIN pricing during the initial protest. The Camp Pendleton public bid opening was held on October 27, 1995; shortly thereafter, on November 17 and December 13, Allstate filed agency-level protests challenging P&C's pricing as materially and mathematically unbalanced. Both agency-level protests were denied.

On December 14, 1995, Allstate filed this protest with our Office challenging the Navy's award of a contract to P&C under the San Diego procurement. Despite its knowledge of P&C's Camp Pendleton CLIN bid pricing, Allstate never mentioned those pricing results during the course of its protest under this procurement--which included a lengthy March 20, 1996 telephone hearing during which the Navy stated that P&C's prices were consistent with other procurement pricing results, as well as a supplemental round of comments from all parties addressing the pricing disparity issues and evidence discussed during the March 20 hearing.

Whatever the reason for Allstate's failure to mention P&C's Camp Pendleton CLIN pricing results, it cannot proffer this information for the first time on reconsideration--7 months after it first learned of this evidence. CB Commercial Gov't. Servs. Group--Recon., B-259014.2, Apr. 3, 1995, 95-1 CPD ¶ 176. Since Allstate clearly could have introduced this evidence during the initial protest, but did not, we will not consider it now. Id.

In its initial protest, Allstate also argued that the Navy should have factored potential fluctuations in the level of required moving services into its pricing evaluation of offerors' proposals. Had the Navy done this, Allstate maintained, it would have realized that P&C's proposed price would not be the lowest in the event that actual moving needs exceeded the solicitation's stated quantity estimates.

We dismissed this aspect of Allstate's protest as untimely. In our decision, we explained that where--as here--contractors are on notice of the inherent unpredictability of a particular type of estimate--either by virtue of incumbency or experience in the field--any concerns regarding the accuracy of the government estimate, including how it will be factored in the final evaluation analysis, must be raised prior to the time set for receipt of proposals, in accordance with our timeliness rules. See 4 C.F.R. § 21.2(a)(1). On reconsideration, Allstate contends that our dismissal of this aspect of its protest as untimely will force offerors "to protest every solicitation where the [g]overnment's best estimates may not hold true in actual performance."

Allstate has not shown error with our dismissal--it merely disagrees with it. Such disagreement is not a basis for reconsideration. Hi-Shear Technology Corp.--Recon., B-261206.2, Feb. 12, 1996, 96-1 CPD ¶ 63. In any event, notwithstanding Allstate's assertions to the contrary, the effect of enforcing our timeliness rules is not to compel protest challenges in every instance where an agency solicits its needs with

a requirements-type contract. Rather, our decision simply alerts offerors that in the event they suspect that the government's quantity estimates are defective, and warrant adjustment--either by changing the estimates, or by providing for the application of some type of quantity fluctuation ratio, such as that argued for by Allstate in this protest--such matters must be raised prior to the solicitation closing time, when it is most practicable for an agency to take corrective action. See Allstate Van & Storage, Inc., B-247463, May 22, 1992, 92-1 CPD ¶ 465.

The request for reconsideration is denied.

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