

THE AGENCY MADE FOUR MISTAKES IN THE PROCUREMENT

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In a more “normal” protest, an agency may make one or two mistakes that causes the Government Accountability Office (“GAO”) to sustain the protest. But in a recent protest of a Department of Agriculture competition for information technology services, the agency made four separate mistakes, all of which GAO found were proper reasons for sustaining the protest. *Harmonia Holdings Group, LLC*, B-417475, Sept. 23, 2019.

The solicitation involved information technology operations and maintenance services, optional line items for development, modernization and enhancements (“DME”) and other tasks in support of the Animal and Plant Health Inspection Service. Pricing was a mixture of fixed-price and cost reimbursement.

Mistake 1

On the optional DME line items, the agency stated it would evaluate both cost realism and reasonableness. In doing so, however, the agency used a very flawed methodology because it (1) never stated the expected need for each of the labor categories or the number of hours expected; (2) used a selectively chosen sample of five hourly rates, ignoring others; (3) failed to take into account other factors present in the vendor’s quotations for these line items; and (4) never explained the flawed methodology for the evaluation in the solicitation. GAO found the evaluation of the optional DME items was unreasonable and the agency lacked a reasonable basis for its chosen methodology of evaluation.

Mistake 2

The GAO found that the evaluation of past performance was both inadequately documented and inconsistent with the terms of the solicitation. In fact, there were objective differences between some of the identified performance references and the requirements, which appeared to be inconsistent with the ratings.

Mistake 3

The agency unreasonably assessed several weaknesses against the protester which were inconsistent with the solicitation. Furthermore, there was an inconsistency between the selection official and the Technical Evaluation Board which was not explained. In one glaring mistake in evaluation, the agency assessed weaknesses based on an *initial* quotation, even though the agency held discussions and a revised quotation was submitted—but not evaluated.

Mistake 4

Based on the “numerous evaluation errors” discussed in the protest, the GAO held that the best-value tradeoff decision, which resulted in award to a higher priced, technically superior vendor, was unreasonable and inadequately documented.

The takeaway: An agency’s evaluation that is riddled with numerous flaws will not pass muster at the GAO. Inadequate documentation and failure to evaluate in accordance with the evaluation criteria is one of the seven major “recurring” grounds for sustained protests at the GAO. See

Lieberman, “Treading on the Same Rake-Learning from Agency Mistakes Identified in GAO Bid Protests,” *Contract Management*, January 2019 (Nat’l Contract Mgt. Assn.). Agencies should be able to avoid these types of mistakes.

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