

CLIENT ALERT

Agency Unreasonably Disregarded Evaluated Incumbent Advantages as “Negligible”

Dec.20.2017

In a recent decision, *Protection Strategies, Inc.*, GAO sustained a protest of a Federal Supply Schedule blanket purchase agreement issued by the Department of Health and Human Services for background investigation services that had been awarded to the lower rated, lower priced offeror. Following corrective action taken in response to a protest of the initial award decision, GAO found that the source selection authority still failed to conduct a true tradeoff analysis between the protester’s technical advantages and the awardee’s lower price, and instead irrationally disregarded the protester’s evaluated strengths as “negligible” or “minimal” apparently solely because they were related to the protester’s status as the incumbent. GAO also found that the agency improperly credited the awardee with strengths for its key personnel despite failing to provide solicitation-required letters of commitment. For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Gail D. Zirkelbach

Partner – Los Angeles

Phone: +1 213.443.5549

Email: gzirkelbach@crowell.com

Mark A. Ries

Senior Counsel – Washington, D.C.

Phone: +1 202.624.2794

Email: mries@crowell.com