

CLIENT ALERT

GAO Denies Air Force "Leeway" to Conduct Tradeoff Using Paired Proposals

December 9, 2019

In a recent decision, *Blue Origin Florida, LLC*, GAO sustained a pre-award protest challenging the stated basis for award in an Air Force solicitation for two competitive, fixed-price contracts for space launch services. While the solicitation included evaluation criteria and their relative importance, it did not contemplate a standard source selection whereby the agency would conduct one-to-one tradeoff analyses to determine the top two best value proposals. Instead, the solicitation required award to the two offerors that, "when combined," represented the best value to the government.

The Air Force sought to justify this approach by arguing that the top two ranked proposals might not provide the best overall value to the government if, for example, they shared common strengths and weaknesses, whereas a lower ranked proposal might possess strengths and weaknesses that complement those of a higher-ranked proposal. GAO sustained the protest, reasoning that "short of colluding with other potential offerors to coordinate their respective proposals, it is not apparent how an offeror could intelligently compete" because the offeror would be evaluated according to its general compatibility with another's proprietary bid and not the merits of its own proposal.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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