

CLIENT ALERT

GAO Issues Rare Sustain of a Corrective Action Protest

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In *Peraton Inc.*, GAO sustained a challenge to the scope of an agency's corrective action. The State Department awarded a task order to ManTech. Peraton challenged that award on numerous grounds, including on the basis that the awardee's letters of commitment for key personnel did not satisfy solicitation requirements. After an outcome prediction alternative dispute resolution teleconference in which GAO informed the parties that it believed this challenge to be meritorious, the agency undertook corrective action by reopening discussions to confirm the availability of proposed key personnel, update letters of commitment, and validate proposals.

During the corrective action, Peraton requested the agency expand the scope of corrective action to allow it to replace several of its key personnel that were no longer available. The agency did so, but refused a subsequent request from Peraton to also permit further revisions to offerors' technical and price proposals to account for the changes in the proposed key personnel.

Peraton protested that the agency's proposed scope of corrective action was unreasonably narrow, arguing that it forced offerors to submit a proposal that is facially inconsistent and would not comply with the solicitation's requirement that key personnel and staffing be aligned with an offeror's technical approach. The agency complained that "no good deed goes unpunished" as it allowed for key personnel substitution to accommodate the protester, but GAO agreed with the protester that the corrective action was unduly restrictive because it should have permitted changes to other sections of the technical proposal affected by the key personnel changes, which were discussed at length in Peraton's technical proposal. However, GAO agreed with the agency in finding that the restriction on changes to price proposals was reasonable, as there was no clear reason to believe pricing would be affected by substitution of key personnel and the awardee's price had already been disclosed.

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