

CLIENT ALERT

GAO Ups the Ante on Biased Ground Rules OCIs

Mar.15.2010

In Energy Systems Group (Feb. 26, 2010), GAO found that the agency had acted reasonably in excluding the protester from the competition because of concerns about a biased ground rules organizational conflict of interest ("OCI") when protester had previously prepared a feasibility study in anticipation of a potential sole-source award upon which the agency relied to develop approximately 80% of the requirements for the competitive procurement at issue. GAO rejected protester's arguments that (i) at the time protester prepared the feasibility study, a competitive procurement was not anticipated and, therefore, the study could not affect an unanticipated competition; (ii) protester was unaware that the feasibility study might be incorporated into the requirements for the competitive procurement; and (iii) the feasibility study was released to all prospective offerors. For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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