

CLIENT ALERT

Price Realism Requirement Is Easily Triggered

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In *Esegur-Empresa de Segurança, SA* (April 26, 2013), GAO held that the solicitation statement that "unrealistically . . . low . . . prices may serve as a basis for rejection of the proposal" alone created a presumption that the agency would in fact conduct a price realism evaluation of whether proposed prices are too low, even though the solicitation did not say such an evaluation would be conducted, and the agency's failure to do so therefore required that the protest of the awardee's low price award must be sustained. If agencies prophylactically include such language warning against "too low" prices in "low cost technically acceptable" solicitations, disappointed offerors may have a ready-made protest if no realism analysis is performed, but, if agencies do not include such language, they may be required to award to high risk offerors who do not understand the requirements.

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

Thomas P. Humphrey

Senior Counsel – Washington, D.C.

Phone: +1 202.624.2633

Email: thumphrey@crowell.com

James G. Peyster

Counsel – Washington, D.C.

Phone: +1 202.624.2603

Email: jpeyster@crowell.com