

CLIENT ALERT

GAO Rejects Use of Highest-Technically Rated Reasonably-Priced Award Criteria for FSS Contracts

January 23, 2020

In *Noble Supply & Logistics, Inc.*, GAO sustained a pre-award protest challenging a General Services Administration request for quotations under FSS No. 51V, hardware store supplies and ancillary services. The RFQ contemplated four separate single-award blanket purchase agreements for use by the Army, Navy, Air Force, and Marines respectively, and provided that award would be made to the vendor(s) submitting the highest technically rated quotations with fair and reasonable prices. The protester challenged this methodology, alleging that it failed to meaningfully consider price as required by FAR Part 8.

GAO sustained the protest. In so doing, GAO distinguished a prior decision in which it had sanctioned the use of Highest-Technically Rated Reasonably-Priced (HTRRP) award criteria in a FAR Part 15, multiple award negotiated procurement. GAO observed that unlike FAR Part 15, which establishes a broad continuum for the assessment of best value, FAR Part 8 requires that an order under the FSS result in the “lowest overall cost alternative” to meet the Government’s needs. According to GAO, an isolated price reasonableness determination on prices already determined reasonable by GSA at the time the schedule contracts initially were awarded failed to meaningfully consider price in the instant procurement, in contravention of applicable procurement laws and regulations. GAO also found troubling the agency’s intent to issue single-award BPAs, rather than the multiple-award IDIQ’s used in GAO’s earlier decision on this issue, because this scheme precluded the possibility of price competition at the order level.

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