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## Environmental/Remediation and Munitions Response Services: U.S. GAO Addresses Protest of U.S. Corps of Engineers Bid Decision

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The United States Government Accountability Office ("GAO") issued a January 16th decision addressing a protest of a United States Corps of Engineers ("Corps") rejection of a bid proposal.

See Matter of Bristol Environmental Remediation Services/ LLC B-416980; B-416980.2.

The bid addressed the Corps' Request for Proposal ("RFP") for environmental remediation and munitions response services.

The January 16, 2019, decision notes that the Corps RFP was set aside for exclusive participation among eligible section 8(a) small businesses. Further, it would award up to 10 fixed-price, multiple-award, indefinite-delivery, indefinite-quantity task-order contracts.

The award was to be made on a best-value tradeoff basis, considering price and several non-price considerations. The non-price considerations included (listed in descending order of importance):

- Previous experience
- Resumes of key personnel
- Past performance
- Organization structure
- Sample project technical approach

Bristol Environmental Remediation Services, LLC ("Bristol") was the author of one of the proposals in response to the RFP. The Corps is stated to have assigned the Bristol proposal a marginal rating and identified five weaknesses as forming the basis for that rating. All of the other proposals received acceptable ratings under the previously referenced fifth evaluation factor. As a result, the Corps made an award to six offerors - which did not include Bristol.

Bristol filed a protest with GAO.

Bristol argued in its challenge that the Corps unreasonably assigned all of the identified weaknesses to its proposal and that it should have been given an acceptable rating under the sample project technical approach factor. Further, it argued that if the Corps' evaluation had been reasonable it would have been awarded one of the possible 10 contracts contemplated under the RFP.

In evaluating the protest GAO notes that the RFP required the offerors to provide the Corps with a response to a sample project as outlined in that document. The sample project required the offeror to:

. . . provide a comprehensive plan to respond to a trench that contained potentially unexploded ordinance (UXO); to excavate the trench and remove the UXO; and to remediate the trench and a surrounding 60-acre area.

They were further required to describe how they would render the site acceptable for unlimited use and unrestricted exposure.

The GAO reviewed certain weaknesses as identified by the Corps. It expresses no opinion regarding certain scientific conclusions of the Corps in connection with the evaluation of the proposals. However, it concluded that both Bristol and another offeror were criticized for the adequacy of their soil sampling protocols. Nevertheless, the Corps is stated to have ultimately made award to one firm while eliminating Bristol from award consideration. It concluded that this was disparate treatment of offerors.

The decision also addressed Corps concern regarding the fact that Bristol would not be using robotic equipment and instead technicians on site to perform certain excavation. Bristol argued that its proposed methodologies were consistent with the engineering guidance included in the RFP.

GAO agreed that Bristol's proposed approach appeared consistent with the engineering guidance included in the RFP. The Corps was deemed to have unreasonably assigned the weakness to the Bristol proposal.

The GAO decision recommends that the Corps reevaluate Bristol's proposal in light of its discussion (including the Corps' admission that three weaknesses were erroneously assigned.)

A copy of the decision can be found [here](#).