



**Read Your RFP Carefully.
Then Read it Again.**

[Kevin Cosgrove](#)

In the world of federal contracting, one thing is clear. When crafting a response to a Federal Government Request for Proposal (RFP), one must comply with the precise evaluation criteria contained in that document. Failure to do so will usually result in an otherwise worthwhile proposal being eliminated from consideration. The recent Government Accountability Office (“GAO”) opinion regarding *Logistix, Inc.*, B-421341, March 27, 2023, is the latest example of this truism.

In May 2022, the Vicksburg District of the Army Corps of Engineers (“COE”) issued an RFP seeking a contractor to provide maintenance at four flood-control lakes in Mississippi. The RFP was issued under the 8(a) program, which permits contracts to be “set aside” for certain socially and economically disadvantaged small business concerns. Respondents to the RFP were required to demonstrate their prior experience in performing this type of work.

Discuss your technical experience providing relevant services described in Section C [statement of work] to commercial/industrial clients and/or federal, state, municipal Government agency clients. Offerors should provide a detailed description of the work

their *firm* completed, and their role and length of time spent on the work. Prior experience (as an independent Contractor, joint venture, or any other business arrangement) in accomplishing the many diverse operations, maintenance and repair activities required by this solicitation shall be demonstrated.

Logistix, B-421341, p. 3 (emphasis added). Note that the RFP specifically required respondents to describe prior work performed by their firm. It did not ask about the experience of individual employees of the respondents.

The president of *Logistix* had a long history of past performance regarding installation and maintenance of HVAC, electrical and sewage systems. He had also served as a consultant for another company that had performed numerous contracts similar to the one at issue. So while the president had a wealth of experience as an individual, that was not what the RFP sought. In its proposal, *Logistix* provided a detailed list of the prior work performed by its President. The COE was not impressed.

Logistix did not submit any contracts as an independent contractor, joint venture, or any

other business arrangement demonstrating that it has performed work similar to the work required by the solicitation. The projects submitted under technical experience were completed by another vendor, not Logistix.

Id., p. 4. Despite this flaw, Logistix was given the opportunity to submit a revised proposal.

But the revised proposal fared no better. Again, Logistix was unable to point to any similar contracts that had been performed by Logistix as a firm. As a result, Logistix's proposal was deemed unacceptable due to this deficiency.

Logistix filed a protest at the GAO. Its main argument was that the Army had unreasonably evaluated its proposal by refusing to find it had the required experience. Typically, this argument is an uphill battle at GAO. It is well settled that GAO does not substitute its judgment for that of a federal agency. *Dyncorp Int'l, LLC*, B-419100, B-419100.2. Dec. 16, 2020. Instead, GAO's job is to review the procurement record to determine if the agency's evaluation was reasonable and complied with the applicable regulations. *AECOM Mgmt. Servs., Inc.*, B-417639.2, B-417639.3, September 16, 2019. If the agency evaluation is supported by the record, the inquiry is at an end and the agency decision is upheld. This is true even if GAO would have reached a different conclusion. *Weeks Marine v. United States*, 575 F.3d 1352, 1371 (Fed. Cir. 2009).

Here, GAO had no difficulty upholding the agency decision to reject Logistix's proposal.

In this regard, the crux of the protester's argument is that the experience of the company and its founder and president are one and the same, "meaning his experience is directly equivalent to the company or [firm's] experience." Comments at 2-5. The agency argues that the RFP did not permit consideration of the individual work experience of Logistix's president in his various roles at [DELETED] and

[DELETED] to demonstrate the offeror's technical experience. MOL at 10-12. We agree with the agency.

Nothing in the RFP required that the agency consider the work experience of an individual to demonstrate the offeror's technical experience. Instead, the RFP indicated that the qualifications of key personnel would be considered under the staffing subfactor.

Id., p. 5-6.

This matter followed a path that has been walked by many prior bid protests. GAO rarely sustains protests that do not demonstrate an objective mistake made by the agency during the evaluation process. Merely disagreeing with an agency's interpretation of its RFP is not enough. A protestor needs to show that the agency's decision was wrong because of an error in the evaluation process. There was no such error here. Thus, Logistix's protest was denied.

The takeaway from *Logistix* is straightforward. Read your RFPs carefully and follow their instructions. As Aristotle warned over twenty five hundred years ago, "It is possible to fail in many ways, while to succeed is possible in only one way."

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