
From: The LAB @ DOC
Subject: MMCB - Vol. 15 - Experience & Incumbents, Oh My! Feb. 2021



Welcome to MMCB Volume 15! This Monday covers a short HHS CMS decision that discusses the broad parameters we have related to the evaluation of experience, and that we should ensure the approach is open to competition and not too unique for incumbents!

Matter of: Accenture Federal Services, LLC
File: [B-418321.4](#)
Link: <https://www.gao.gov/products/b-418321.4#mt=e-report>
Date: January 29, 2021

Ever since their PIL Boot Camp at CMS HQ in 2019, CMS has been trying to stay true to the recommended PIL process. This decision focuses on a solicitation based challenge regarding **experience** in phase one. The model employed here is the standard two-phase advisory model with only experience in the first phase. This is Accenture's fourth protest of this procurement, and they lost the first award complaining that *"the agency's evaluation of corporate experience was contrary to the solicitation's stated evaluation factors in that Accenture's experience as the incumbent contractor did not serve as a vast discriminator in [Accenture's] favor."* I wish CMS would have defended their actions and let the chips fall where they may, but they weren't willing to do so. Part of their corrective actions were to amend the solicitation, request and evaluate revised proposals, and make a new award determination. Accenture then protested the new solicitation because they didn't like how broad *"similar size, scope and complexity"* language was for experience, so CMS again amended the solicitation to include some more targeted language on what it means to be *"similar"*. That still was not good enough for Accenture as they wanted the experience to be narrower, **perhaps** so that only they could win it with their incumbent experience. The angling of Accenture trying to use their *"unique experience"* as a qualifier for all experience submissions was noted specifically by GAO in the decision as well. The key findings are below:

Accordingly, Accenture asserts that the amended solicitation's provision regarding similarity of size is "unreasonable on its face," and further complains that the provision improperly "conflates" consideration of size with considerations of scope and complexity

This decision should be *empowering* to teams that are waffling on how to evaluate experience and are afraid an incumbent will cry foul. Here are some quotes I found compelling, but it is only a 5-page decision if you want to skim it yourself 😊.

In this context, an agency may reasonably provide for an evaluation that fosters competition by increasing the viability of proposals being submitted by non-incumbent offerors

In this regard, the role of our Office in reviewing bid protests is to ensure that the statutory requirements for full and open competition are met--not to protect a protester's interest in restricting competition.

Additionally, it is not lost on this Office that, to the extent Accenture's protest repeatedly references and relies upon its unique experience performing the current FFE contract, its protest is attempting to limit the agency's meaningful consideration of offerors that appear to be no less experienced than Accenture was upon its award of the incumbent contract. In this context, we see no basis to question the manner in which the agency states it will evaluate experience

Further, there is no question that Accenture is capable of complying with the solicitation provision regarding size similarity; that is, Accenture is not prejudiced by this provision--other than the "prejudice" of potentially facing more meaningful competition.

Final thought: I wish we [the Government] would just defend our actions instead of caving to corrective actions. That is part of our culture of fear, not just that we will get protested, but then we will lose because a robust company like Accenture is upset and **perhaps** attempts to limit the scope of experience to be submitted by competing offerors. Even when we receive a partial sustainment, the GAO or COFC have scoped the corrective actions we must then take instead of guessing and deciding to redo everything. I hope we can all start turning around that part of the culture of fear with the teams we interact with!

This volume was originally authored in February 2021 and refreshed in March 2025.

*Disclaimer: The information contained in this MMCB is merely an opinion of the author and does not constitute formal legal or policy guidance of any kind.

