



Fair, Efficient, and Transparent Acquisitions (FETA)

Overview

The ability to file a protest is a statutory right granted to interested parties by law. However, alongside the well-founded protests, there are also a number of filings that appear to lack merit or may have been submitted for reasons unrelated to the substance of the overall procurement. View the [GAO BID Protest Annual Report to Congress for Fiscal Year 2024](#) to see the statistics of the past five years, which does not include protests to COFC or other forums. Here is a summary of GAO & COFC protest decisions for the Department of Commerce from the beginning of FY20 to Q3 FY25:

Denied	77
Denied/Dismissed	2
Dismissed	104
Open	9
Sustained	10

As the record shows, it is rare that the Department receives a sustainment. When it does, it is almost always a very narrow sustainment, where several other protest grounds were denied/dismissed. Here is an example that illustrates this nuance: [IBSS Corporation, B-422757, Oct 18, 2024](#). In IBSS, a single protest ground was sustained where the agency failed to meaningfully evaluate the awardee's proposed compensation plan in accordance with FAR 52.222-46. However, when it came to addressing the Staffing plan pursuant to FAR 52.222-46? *Denied*. Bait and switch of key personnel? *Denied*. Unequal discussions? *Denied*. OCI mitigation plan? *Denied*. So, what was the ultimate outcome? The agency implemented GAO's recommendations, reaffirmed its award decision, and the protester did not challenge the outcome any further.

Unfortunately, this decision comes with unfavorable conditions that many times affect the mission. For example, what was the total delay to the government? Over six months and countless hours of burdensome administrative tasks! The government spends considerable time, money, and effort without the ability to recoup those costs or time for each denial, dismissal, and voluntary corrective action. It is almost always a detriment to the government's mission as well.

The sample solicitation language below is meant to draw prospective vendors attention to the extraordinary efforts the acquisition team has taken to conduct a fair, efficient, and transparent acquisition, along with the additional efforts they will take in the award and post-award process. If an acquisition team has not undertaken a particular effort, then it can remove it from the list if it does not apply and/or provide any additional efforts that it has taken on.

Key Considerations

- Ensure prospective vendor awareness of the efforts taken
- Remind the vendors of the data and percentages regarding bid protest decision outcomes in general
- Reduce the likelihood of invalid protests



- Create an atmosphere of trust and cooperation

Consider this Language

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The Government is committed to conducting this acquisition with the utmost integrity, fairness, transparency, and efficiency. We recognize the significant investment of time and resources made by our industry partners like you in preparing proposals, and we are dedicated to a process that is beyond reproach. To that end, we want to highlight the extraordinary efforts undertaken in developing this requirement and acquisition strategy as follows:

1. **Extraordinary Market Research:** We performed extensive and rigorous market research, including streamlined Requests for Information (RFIs), a dedicated Industry Day, numerous one-on-one sessions, and comprehensive Question & Answer session(s). [Insert anything else done here.] This has ensured a deep understanding of market capabilities and best practices.
2. **Acquisition Innovation Lab Collaboration:** Our evaluation strategy and overall acquisition approach have been meticulously reviewed and refined in close collaboration with the Department's Acquisition Innovation Lab ([The LAB](#)).
3. **Targeted Requirements Development:** We have conducted several targeted sessions with our requirement owners to focus on the most pertinent areas of the requirement. We have also included industry input in the development of the requirement. This ensures that the evaluation factors are directly aligned with mission-critical needs and clearly communicate what is most important for successful performance.
4. **Streamlined Proposal Submission:** The proposal submission process has been carefully designed to be as efficient and minimally burdensome as possible, focusing solely on the areas of importance necessary for a comprehensive and fair evaluation. Our aim is to reduce the administrative burden on offerors while still enabling robust competition.
5. **Transparent Milestone Schedule:** This solicitation includes a detailed milestone schedule, outlining the Government's intended timeline for key evaluation, notice, and award phases. We are committed to adhering to this schedule to the maximum extent practicable, providing clarity and reliable information to offerors.
6. **Proven Innovative Procurement Techniques:** This acquisition incorporates a variety of proven innovative procurement techniques, carefully selected and implemented to enhance efficiency, promote competition, and achieve best value for the taxpayer. Please see the [Communicating Innovative Techniques with Industry \(CITI\)](#) section for further information on each technique.
7. **Commitment to Transparency and Feedback:** Following the award, the Government plans to be transparent by sharing your evaluation reports with you as part of our informal feedback session or debriefing/brief explanation, depending on the type of procurement conducted. Our goal is to provide clear, actionable feedback that fosters continuous improvement for all participants.



The Government firmly believes that these comprehensive efforts will result in a fair, transparent, and highly defensible award decision. We encourage you to engage with us throughout this process by utilizing the established Q&A channels. Our objective is to build strong, collaborative partnerships that ultimately deliver dynamic solutions responsive to our stakeholders' evolving needs.

Why Is This Innovative?

To our knowledge, this type of language has never been attempted. We always just think of protests as inevitable obstacles, plan for them in the milestone, and expect the delays. Make it better, with a little bit of FETA!

Questions? Contact The LAB at TheLAB@doc.gov. The LAB is happy to connect and think through the next steps with you.

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

