



Weekly Report for December 15, 2017

SMALL BUSINESS

GSA Names 80 Small Businesses to Lead Alliant 2 SB Competition

On December 7, 2017, the GSA released a pre-award list of 80 companies in the running for the five-year, \$15 billion Alliant 2 Small Business information technology and professional services contract. The businesses have not yet been granted award but the listing allows competitors to challenge the small-business status of those listed. For a complete list, please see the Federal Contracts Report, Vol 108, No 21, 545.

Senator Shaheen Releases Report on Women's Entrepreneurship

On December 13, 2017, Senator Jeanne Shaheen released a report, titled "Tackling the Gender Gap: What Women Entrepreneurs Need to Thrive," which describes the current state of women's entrepreneurship in the United States. The report examines the intersecting financial, cultural, and structural obstacles facing women entrepreneurs in this day and age. Identified in the report are several hurdles that women entrepreneurs face, such as a lack of mentorship, a gender pay gap, fewer credit options, and a lack of venture capital. Nevertheless, women are creating new businesses five times faster than the national average. Thirty years ago, there were approximately 4 million women-owned businesses in the U.S., and today there are more than 11 million. You can view the full report [here](#).

"House Passes S. 1266, Enhancing Veteran Care Act" *House Committee on Veterans' Affairs Press Release*, December 6, 2017. Retrieved from veterans.house.gov

On December 6, 2017, the House of Representatives passed S. 1266, the Enhancing Veteran Care Act. If enacted, this legislation would allow the Department of Veterans Affairs to contract with nonprofit organizations that accredit health care organizations to conduct audits and investigations of VA medical centers, to equip the centers with additional information needed to drive improvements in care. This bill was passed by the Senate last month, and currently awaits the President's signature for it to become law.

GAO

Watchdog Defends Government Use of Lowest-Price IT Contracting

According to a GAO Report issued on November 20th, Federal use of the lowest-price technically acceptable (LPTA) contracting for information technology services is acceptable as a primary method of selection. A move, by the current administration, toward using LPTA as the primary selection method stands in stark contrast to the numbers found during a recent GAO analysis of awarded contracts. Over 780 contracts, valued at ten million dollars (\$10,000,000), were issued in the first half of the 2017 fiscal year. During the GAO analysis of these contracts, it was discovered that of 133 contracts awarded for IT services, only nine were awarded using LPTA.

LPTA contracting has received considerable scrutiny from Congress and industry, with critics claiming it undermines competition and reduces total value. Due to these beliefs, the 2017 National Defense Authorization Act included a provision narrowing the circumstances under which agencies may use LPTA. However, the most recent GAO findings indicate that contracting offices appear to be demonstrating appropriate caution when choosing LPTA for IT services, which is understood to be more complex than commodity IT hardware and software purchases. The Report may give agencies more confidence to use LPTA in the future. For more information see the Federal Contracts Report, Vol 108, No 21, 545.

Recently Issued GAO Decisions

Goodwill Industries of the Valleys, B-415137 (Nov. 29, 2017): The protester challenged the GSA's actions in connection with the award of a lease, arguing that the GSA's actions violated the Javits-Wagner-O'Day Act (JWOD Act). Under the JWOD Act, agencies are required to purchase certain goods and services from a list of approved organizations. The protester is the mandatory source for the custodial services at issue, and the protester asserted that the GSA violated the JWOD Act when it entered into a lease that included custodial services. In reaching its decision, GAO first rejected the GSA's argument that GAO lacked jurisdiction to consider this protest under the JWOD Act or because the protest was not timely filed. The GSA defended the merits of the protest by arguing that a lease for real property is not subject to the requirements of the JWOD Act. GAO disagreed, finding that similar procurement statutes and regulations apply to the acquisition of real property leasehold interest, and that a property lease is a contract. As such, the lease was subject to the JWOD Act, and GSA violated the Act by acquiring custodial services from a source other than a mandatory source. The full decision can be viewed [here](#).

Immersion Consulting, LLC, B-415155, B-415155.1 (Dec. 4, 2017): The protester challenged the issuance of a task order under FAR subpart 8.4. Specifically, the protestor challenged the evaluation of quotations and the selection decision. The evaluators assigned strengths and weaknesses to each offeror's proposal. The evaluators assigned a weakness to the awardee because it found there was a risk the awardee would provide insufficient staffing. However, when the source selection authority (SSA) performed an independent analysis of the evaluation, he removed strengths from both offerors' proposals and removed the weakness assigned to the awardee, stating that there was no evidence on how it would negatively affect the government. The SSA then concluded that the protester's and awardee's proposals were technically equal and selected the lower-priced offeror for award. The protester argued that the SSA's disagreement with the evaluators was unreasonable and that the proposals were not technically equal. GAO sustained the protest, finding that there was nothing in the record showing what the SSA reviewed to determine the awardee's staffing did not present a risk. GAO also found the SSA's removal of strengths assigned to the protester's proposal was unreasonable because the evaluators had detailed why the protester exceeded the requirements and the SSA failed to justify the removal of the strengths. The full decision can be viewed [here](#).

AdvanceMed Corporation, B-415062, B-415062.1 (Nov. 17, 2017): The protester challenged the issuance of a task order to perform audit and investigation work. The protester argued that the awardee had an undisclosed organizational conflict of interest (OCI) and that the awardee's proposal was not technically acceptable. With respect to the OCI, the solicitation stated that an OCI existed if an offeror (or its affiliates) served both as a unified program integrity contractor (UPIC) and as a Medicaid management information systems (MMIS) contractor in the same geographic area. The awardee's parent company performed MMIS contracts in four states, and the agency failed to consider that fact when it selected the awardee. The agency argued that all MMIS-related contracts were disclosed and reviewed for evaluation, but that there was no OCI because the jurisdiction was different and that the nature of the work was substantially different. GAO reviewed the

reasonableness of the contracting officer's OCI determination and found that despite the OCI provision in the solicitation, the record did not show that the agency meaningfully considered the conflict that arose due to the awardee's parent company's contracts.

As for the technical acceptability argument, the protester asserted that the awardee's proposal was not technically acceptable because the agency had identified features of the awardee's Electronic and Information Technology (EIT) products that did not meet the applicable EIT standards and required modification. The agency argued that offerors were not required to be fully compliant at the time of award, and that offerors were only required to demonstrate an ability to meet the standards. GAO held that the agency's interpretation of the solicitation was unreasonable and, because the awardee's proposal did not meet the EIT requirements, it was unacceptable. The full decision can be viewed [here](#).