

## **PAST PERFORMANCE: THE EXPERIENCE OF AN OFFEROR'S PERSONNEL**

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In evaluating past performance of an offeror, the Government Accountability Office (“GAO”) has a longstanding series of decisions that generally permit the experience of an offeror’s *personnel* to be counted. The experience of the personnel will not be counted if the solicitation contains specific language to the contrary. A good example is *Normandeau Assoc., Inc.*, B-417136, Feb. 6, 2019.

*Normandeau* involved a solicitation by the Army Corps of Engineers for fish counting and related services. The Request for Proposal simply indicated that the agency would evaluate the offeror’s experience performing “relevant Adult Fish Counting contracts.” Normandeau protested that it was improper for the agency to consider the experience of the awardee’s personnel in its evaluation—where the agency had noted that the awardee did not possess organizational experience performing fish counting, but key staff personnel of the awardee had adult fish counting experience as well as 24 hour smolt monitoring, a similar activity.

GAO denied the protest, noting that the protester had the mistaken premise that the solicitation precluded the agency from considering the experience of the awardee’s key personnel. The solicitation did not include a further limitation regarding the consideration of an offeror’s personnel or anything that established that the agency would separately consider the experience of personnel or subcontractors.

The GAO stated that “[w]here a solicitation provides for the evaluation of the experience of the “offeror,” and does not otherwise contain specific language to indicate that the agency would not consider the experience of an offeror’s proposed personnel, or separately consider such information, the general reference to the “offeror” affords the agency the discretion to consider the demonstrated experience of an offeror’s proposed personnel or subcontractors because such experience and past performance may be useful in predicting success in future contracts.”

Takeaway. Read solicitations carefully regarding past performance. If the solicitation precludes the consideration of evaluating experience of key personnel, that’s one thing. But if not precluded, then the experience of your key personnel should be considered by the agency in the evaluation.

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