

AGENCY MAY USE EVALUATION CONSIDERATIONS NOT IN SOLICITATION WHERE LOGICALLY ENCOMPASSED WITHIN STATE EVALUATION CRITERIA

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The Government Accountability Office (“GAO”) frequently criticizes agencies for an evaluation that is conducted on factor(s) not included in the solicitation, and frequently will sustain a protest on this. *SupplyCore, Inc.*, B-434243, April 9, 2026 poses a different scenario, namely, where an agency applies evaluation considerations *not expressly outlined in the solicitation*.

The General Services Administration (“GSA”) issued a solicitation for logistics support services in Japan. There were numerous grounds of SupplyCorps’ protest that the GAO denied, but this blog focuses on only one, the leasing agreement for the warehouse that the offeror would use. Each offeror was required to provide a clear, concise and complete narrative verifying 12 aspects of its approach, one of which was a requirement for the offeror to describe its warehouse space (location, size, layout and whether it was standalone, as well as identify the entrances and exits). Sufficient documentation was required to be provided in the offer, including pictures, layouts or blueprints that had to be clearly labeled and highlighted. Furthermore, each offeror had to provide documentation of ownership or a copy of the proposed lease agreement for the warehouse.

In examining Supply Core’s offer, the evaluators determined that Supply Core did not provide clear evidence that its warehouse conformed to the RFP requirements—particularly since the leasing contract was entirely in Japanese and the evaluators could not confirm the warehouse address, the duration of the lease, and that the warehouse would be available upon contract award. Because of this, the evaluators assigned a “weakness” to the warehouse space requirement.

SupplyCore challenged this “weakness” because the solicitation did not require supporting documents to be in English. GSA responded to this protest ground stating that the Japanese lease agreement, without an English translation, made it not possible to review the information required by the solicitation. GAO stated that it was “unpersuaded by SupplyCore’s arguments.” GAO found nothing objectionable in GSA’s downgrading a proposal because it failed to supply an English translation of its Japanese lease agreement. GAO further stated as follows:

An agency may apply evaluation considerations that are not expressly outlined in the RFP where those considerations are reasonably and logically encompassed within the stated evaluation criteria. *See SOC LLC*, B-418487.2, B-418487.3, Feb. 4, 2021, at 10. Here, while the RFP did not specify that supporting documentation must be submitted in English, the fact of the matter is this procurement was conducted entirely in English, contemplated an evaluation conducted in English, and the RFP did not otherwise give any indication whatsoever that documents in other languages could be submitted as supporting material. Thus, given that context, the RFP logically encompassed a requirement that documents be submitted in English or with a certified English translation in order to provide agency evaluators with a meaningful opportunity for review. After all, our review

confirms that the lease agreement, while labeled “[DELETED] Warehouse Lease Agreement,” was written entirely in Japanese and therefore provided no information from which the agency could use to verify the length of the lease agreement or that the warehouse space was consistent with the representations made as part of the proposal's narrative, as required by the solicitation.

The GAO denied this ground of SupplyCorps' protest, and all its other grounds.

Takeaway. If evaluation considerations that are not expressly outlined in the RFP, but those considerations are reasonably and logically encompassed within the stated evaluation criteria, GAO will permit agencies to use them in the evaluation. And finally, if an offeror seeks to provide material required by the solicitation that is submitted in a foreign language, it is essential to include a certified English transcript.

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