

Agency Didn't Err in Removing Requirements from the 8(a) Program; TeamGoV, Inc., GAO B-419865.2, B-419865.3

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Protest alleging the agency improperly removed requirements from the SBA's 8(a) Small Business Development Program is denied. The agency issued an unrestricted solicitation seeking services that had previously procured under the 8(a) program. An agency can't remove a requirement from the 8(a) program unless it's a new requirement. Here, GSA found that the new solicitation, which changed the scope of services and sought different capabilities, was a new requirement.

Background

GSA had two contractors performing facilities engineering and maintenance. Those contracts had been awarded under the SBA's 8(a) Business Development Program. In 2021, GSA informed the SBA that it intended to remove those services from the 8(a) Program and procure them in a new solicitation on an unrestricted basis. TeamGOV challenged the new solicitation.

After GSA issued a new solicitation, TeamGOV, Inc. protested, alleging the solicitation did not represent a new requirement and could not be removed from the 8(a) Program. TeamGOV further alleged the solicitation improperly bundled requirements.

Legal Analysis

- **Solicitation Sought a New Requirement** — Under SBA's regulations, an agency can't remove a requirement from the 8(a) program unless it's a new requirement. TeamGOV alleged that the procurement was not new; it was just the old requirement dressed up with "bells and whistles." GAO disagreed. The new solicitation required different capabilities and included a new engineering model. It also changed the scope of the old requirements by requiring different work and different periods of performance.
- **GSA Didn't Need to Complete a Bundling Analysis** — TeamGOV contended the new solicitation bundled requirements. Under the FAR

and SBA regulations, an agency can only bundle requirements when it makes a written determination that bundling is necessary. TeamGOV complained that GSA had not made this determination. But GAO found the determination was not required. Having found that the solicitation sought a new requirement, GAO did not view the solicitation as bundling requirements.

TeamGOV is represented by Sean Trice and Ralph C. Thomas of the Mesh Law, LLC. The government is represented by Robert Notigan and Alexis N. Webster of the General Services Administration as well as Mark Hagerdorn and John W. Klein of the Small Business Administration. GAO attorneys Young H. Cho and Peter H. Tran participated in the preparation of the decision.