

*The following is a statement from Kenneth E. Patton, Managing Associate General Counsel for Procurement Law at GAO, regarding today's decision resolving the protest filed by Blue Origin Florida, LLC, B-417839, August 12, 2019.*

On November 18, 2019, the U.S. Government Accountability Office (GAO) sustained a protest filed by Blue Origin Florida, LLC, of Merritt Island, Florida, challenging the terms of a request for proposals (RFP) issued by the Department of the Air Force for the National Security Space Launch (NSSL) Phase 2 Launch Service Procurement, which seeks to award two contracts for "commercial item" launch services in support of NSSL missions. Blue Origin alleged that several terms of the RFP unduly restrict competition, are ambiguous, or are inconsistent with customary commercial practice.

GAO sustained the protest, finding that the RFP's basis for award is inconsistent with applicable procurement law and regulation, and otherwise unreasonable. According to the RFP, the government will make the two awards by deciding which combination of two independently developed proposals offers the best value to the government. This methodology, as described by the agency, however, does not provide a reasonable, common basis on which offerors will be expected to compete and have their proposals evaluated. GAO recommends that the agency amend the solicitation. Blue Origin also challenged other provisions of the solicitation. GAO found that the other challenged provisions were reasonable and in accordance with applicable procurement law and regulation, and therefore denied those protest allegations.

GAO's decision expresses no view as to the merits of the proposals that have been or will be submitted. Judgments about which offeror will most successfully meet the government's needs are reserved for the procuring agencies, subject only to statutory and regulatory requirements, such as full and open competition, and fairness to potential offerors. GAO's bid protest process is handled by GAO's Office of General Counsel and examines whether procuring agencies have complied with procurement laws and regulations.

Today's decision was issued under a protective order because the decision may contain proprietary and source selection sensitive information. GAO has directed counsel for the parties to promptly identify information that cannot be publicly released so that GAO can expeditiously prepare and release a public version of the decision. When the public version of the decision is available, it will be posted to our website, "[www.gao.gov](http://www.gao.gov)."

For more information, please contact Kenneth E. Patton at 202-512-8205, Ralph O. White at 202-512-8278, or Chuck Young at 202-512-4800. More information about GAO's Bid Protest process is also available on the GAO website.

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