



Effective Proposal Writing and Debriefing Strategies

June 3, 2021



Paul A. Debolt

Partner | +1 202.344.8384 | PADebolt@venable.com

James Y. Boland

Partner | +1 703.760.1997 | JYBoland@venable.com

Lindsay M. Reed

Associate | +1 202.344.4659 | LMReed@venable.com

Agenda

- Part I: Effective Proposal Writing
- Part II: Key Themes in Case Law
- Part III: Effective Debriefing Strategies



Part I: Effective Proposal Writing

Proposal Writing Essentials

- Understand the difference between Sections L and M
 - Section L – Contains information and instructions to assist potential offerors with preparing their proposals, including how offerors should organize and submit their proposals, as well as information that should be discussed in the proposal
 - Section M – Contains all of the significant factors and any significant subfactors as well as their relative importance in the government's award decision

Proposal Writing Essentials

- Strictly comply with instructions
- Know the evaluation scheme (weighting of factors)
- If RFP says price is least important factor, believe it

Proposal Writing Essentials

- Write to the evaluation criteria; address every factor

- Ask questions to resolve issues:
 - Get involved early during requirements definition
 - Submit questions prior to the time and date for proposals
 - Attend Industry Day sessions and ask questions
 - Clarify understanding in proposals, as this carries greater weight than during performance if the government accepts (risk is that the proposal will be determined to be non-compliant)

Effective Writing Strategies

- Commitments are stronger than aspirational goals
- Get credit for exceeding requirements
- Make the evaluator's job easy – write/highlight each proposal strength for them
- Be clear on roles and responsibilities of teaming partners, JV partners, etc.

Effective Writing Strategies

- Address every requirement, but do not parrot back
- Demonstrate understanding of requirements or validity of approach with specific references to past examples/incumbent (e.g., “our staffing retention plan has resulted in 98% retention in the last five years”)
- Ensure resumes of key personnel demonstrate minimum experience
- Avoid including unnecessary proposal assumptions; may be construed as taking exception to requirements

Effective Writing Strategies

- During discussions, fully answer the question asked and recognize when the government has a concern; but not every question requires a rewrite of your proposal
- Do not make assumptions that the agency will know what you are talking about or know who you are; if it is not in your proposal, it will not be evaluated
- Explain why corporate experience/past performance references are relevant with reference to the RFP's size, scope, or complexity

Key Takeaways

- Follow the instructions set forth in Section L
- Draft proposal to address the evaluation criteria
- Neatness counts

Part II:
Key Themes in Case Law

Offeror Has the Burden of Submitting Well-Written Proposal

- *AECOM Management Services, Inc. et al.*, B-418467, May 15, 2020
 - Protest of solicitation for support services at Army base was denied.
 - Protester raised several grounds, including that the Army unreasonably concluded that it could not perform a cost realism analysis when the Army found that the cost proposal relating to one of the proposed subcontractors was missing certain required information.
 - Ultimately, the Army could have reverse-engineered the missing information, but the proposal did not provide the information as required by the solicitation.
 - “An offeror is responsible for submitting a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation requirements and allows a meaningful review by the procuring agency.”

Agency Will Not Spoon-Feed Offerors

- *JJ Global Services*, B-418318, February 7, 2020
 - Protest of solicitation for landscaping services denied.
 - RFP set strict page limits for narratives supporting the technical approach—anything beyond the page limits would not be considered.
 - There was an obvious error in formatting and printing that caused required information to fall outside the page limits and the protester was assigned an unacceptable rating.
 - “[I]t is up to the agency whether or not to seek clarifications regarding proposals....[A]n agency is not obligated to sort through an offeror’s proposal to decide which pages should or should not be counted.”

Agency Cannot Give You Credit for Information Not in Proposal

- *F-2 Solutions, LLC*, B-418950.2; B-418950.3, April 27, 2021
 - Protest challenging the elimination of the protester’s proposal because it did not include a CPAR to support one of its past performance references was denied.
 - The protester argued that the agency could have discovered this CPAR itself. The GAO held that an agency is not required to seek out information that an offeror did not submit.
 - The protester also argued that it informed the agency of the existence of the CPAR in a clarification, so the agency could not properly ignore it under the close-at-hand doctrine. However, the GAO found that the close-at-hand doctrine is not intended to remedy an offeror’s failure to include information in its proposal.
 - “[T]he agency had no obligation to seek out and favorably consider information the protester was, in fact, required to have submitted.”

Agency Cannot Give You Credit for Information Not in Proposal

- *Morgan Business Consulting, LLC*, B-418165.6, B-418165.9, April 15, 2021
 - Protest objecting to the agency’s assignment of weaknesses due to an impending corporate restructuring of a proposed subcontractor was denied.
 - The agency argued that, during the time of evaluation, it was unclear whether the transaction would impact performance.
 - The protester argued that the agency should have known that the change in ownership would only result in a name change and not impact performance.
 - GAO found that, because the protester did not notify the agency of the transaction or provide any information about the potential impact on performance, it was reasonable for the agency to assume the transaction could potentially affect performance.

If You Do Not Follow Instructions, Proposal May Be Disqualified

- *REV, LLC*, B-418461.10, February 18, 2021
 - Protest challenging protester's elimination from the competitive range was denied.
 - The solicitation required offerors to provide architecture information in a diagram rather than narrative form.
 - Even though protester's narrative addressed certain required information, the agency reasonably considered only the information contained in the diagram.



Part III: Effective Debriefing Strategies

Purpose of Debriefings

- Debriefings serve two main functions:
 - Learn from mistakes/improve proposal next time
 - Gather information to assess potential protest grounds or give you enough information to file protest and get in the door

Know the Requirements

- Request post-award debriefing in writing within 3 days; always request debriefing even if awardee
- Request pre-award debriefing when eliminated from competitive range
 - No debriefing under GSA FSS orders (just “brief explanation of award”)
- If DoD under enhanced debriefing program, you have two days after initial debriefing to ask questions; always ask follow-up questions
- Know when debriefing occurs and when it closes

What Is Government Required to Tell You?

- Not much.
- Post-Award Debriefings, *See* Far 15.506(d)
 - (1) The government’s evaluation of the significant weaknesses or deficiencies in the offeror’s proposal, if applicable;
 - (2) The overall evaluated cost or price (including unit prices) and technical rating, if applicable, of the successful offeror and the debriefed offeror, and past performance information on the debriefed offeror;
 - (3) The overall ranking of all offerors, when any ranking was developed by the agency during the source selection;
 - (4) A summary of the rationale for award;
 - (5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror; and
 - (6) Reasonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed.

Ask Questions Designed to Obtain Useful Information

- Yes/no questions are generally better (easy to answer and more likely to be answered)
- Explore your weaknesses or lack of strengths
 - Ask about specific features in your proposal (“Did you consider ... ?”)
- Explore awardee’s strengths, weaknesses, and key factors in tradeoff
- Explore cost/price analysis
- Ask procedural questions to understand evaluation process
 - Did agency seek clarifications from awardee?
 - Did agency obtain past performance information beyond references provided?
 - Did SSA disagree with any evaluation recommendations?
- Ask about the competition, ranking, next in line, etc.
- If you intend to file a protest, it is sometimes better not to ask a question

Request an Oral or In-person Debriefing

- Submit questions in advance
- Watch out for the same-day debriefing letter
- Enforce opportunity for an interactive process

Request Documents

- Examples:
 - Redacted Source Selection Decision Document
 - Government independent cost or staffing estimates (IGCE)

QUESTIONS



© 2021 Venable LLP.

This document is published by the law firm Venable LLP. It is not intended to provide legal advice or opinion. Such advice may only be given when related to specific fact situations that Venable has accepted an engagement as counsel to address.



VENABLE LLP