Time is indeed of the essence so a contractor is well advised to be familiar with federal bid protest procedures even before a situation occurs.

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Bid protests can arise in several different circumstances. A contractor may protest the bid package, the specifications, the contractor’s right to bid, the award of a contract, or the failure of the contracting officer to consider the contractor’s bid. This article will discuss the procedures by which contractors may protest the award of a contract, or the failure of the contracting officer to consider their bids. These two circumstances will be referred to collectively as “bid protests.”

Bidders need to be familiar with the procedures of bid protests before the need arises, because every hour can be critical in the early stages of the protest. The ultimate outcome of the protest can turn on whether the contract was awarded before the protest. After a protest is made, the contracting officer is not allowed to award the contract, pending the outcome of the protest. Therefore, the prudent bidder will know what needs to be done before the need arises.

When dealing with the government, it pays to play by the government’s rules. The rules and procedures of bid protests provide that:

(a) A protest may be made by an interested party to the General Accounting Office for a solicitation issued by or for a federal agency for the procurement of property or services, or the proposed award or the award of such a contract. If an interested party has filed a protest with the General Services Administration Board of Contract Appeals that party may not protest the same matter to the General Accounting Office.

(b) Protests must be in writing and addressed as follows: General Counsel, General Accounting Office, Washington, D.C. 20548, Attention: Procurement Law Control Group.

(c) A protest filed with the General Accounting Office shall: (1) Include the name, address and telephone number of the protester, (2) Include an original signed by the protester or its

When a problem arises where a federal bid protest must be made, it’s best if the contractor already has the knowledge to move swiftly—because the first few hours can be crucial.
representative, and at least one copy,
(3) Identify the issuing agency and the
solicitation and/or contract number,
(4) Set forth a detailed statement of the
legal and factual grounds of the pro-
test, including copies of relevant docu-
ments, (5) Specifically request a ruling
by the Comptroller General of the
United States (Comptroller General),
and (6) State the form of relief
requested.

In addition, the protester must send
a copy of the protest and all relevant
documents to the person or place
designated in the Solicitation for Bids
for receipt of protests. If no person or
location is so designated, the protest-
er should mail this information to the
contracting officer. This copy must be
received by the appropriate person or
place no later than one day after the
protest is filed with the General Ac-
counting Office. Further, on the pro-
test document there must be an indica-
tion that a copy has been or will be
furnished within one day to the con-
tracting officer or designated location.

Formal briefs and other forms of
pleading or motions are not required.
Bid protests should be arranged logi-
cally in a concise manner, and clearly
state legally sufficient claims of protest.
If any of the above requirements are
not met, the GAO has the discretion
to dismiss a protest.

The wise protester, however, will not
wait 10 days before filing the protest.

The procedures that occur after the
protest has been filed include:

(a) The General Accounting Office
shall notify the contracting agency by
telephone within one day of the filing
of the protest, and then promptly mail
confirmation of that notification to the
contracting agency. If award has been
made, the contracting agency should
immediately give notice of the protest
to the contractor or, if no award has
been made, notice should be given to
all bidders or others who appear to
have a substantial and reasonable pros-
pect of receiving an award if the pro-
test is denied.

(b) The contracting agency shall file
a complete report on the protest to the
General Accounting Office within 25
days from the date of the telephone
notice of the protest from the General
Accounting Office. The report shall

Do not jeopardize
your insurance
because you think
you have a raw
deal when, if fact,
you may have the
only deal in town

Protests of the proposed or actual
award of a contract must be filed
within 10 days after the basis of pro-
test is known or should have been
known, whichever is earlier. A protest
is “filed” when it is received in the
General Accounting Office.
contain copies of relevant documents including, as appropriate: the protest, the bid or proposal submitted by the protester, the bid or proposal of the firm which is being considered for award, or whose bid or proposal is being protested, the solicitation, including the specifications or portions relevant to the protest, the abstract of bids or offers or relevant portions, any other documents that are relevant to the protest, and the contracting officer’s statement setting forth findings, actions, recommendations and any additional evidence or information deemed necessary in determining the validity of the protest. The contracting agency should furnish a copy of the report to the protester and interested parties who have responded to the notice given under paragraph (a) of this section at the same time.

(c) Comments on the agency report should be filed with the General Accounting Office within seven days after receipt of the report, with a copy furnished by the commenting party to the contracting agency and other participating interested parties. Failure of the protester to file comments, or to file a statement requesting that the case be decided on the existing record, or to request an extension under this section within the seven day period, will result in dismissal of the protest.

After all the above papers have been filed, the Comptroller General may either request a conference, or may decide the case on the record. The General Accounting Office is required to rule on bid protests within 90 days of the date such protest is filed. The GAO has the option of choosing the expedited procedure whereby the GAO will make ruling on the protest within 45 days of receiving the protest.

When the GAO determines that a solicitation, proposed award or award does not comply with statute or regulation it will recommend that the contracting agency implement any combination of the following remedies which it deems appropriate under the circumstances:

(1) Refrain from exercising options under the contract;
(2) Terminate the contract;
(3) Recompete the contract;
(4) Issue a new solicitation;
(5) Award a contract consistent with statute and regulation; or
(6) Such other recommendations as the General Accounting Office determines necessary to promote compliance.

The procedures for appealing decisions of the GAO allow the protester and any interested party or federal agency who participated in the protest to request a reconsideration of the decision of the General Accounting Office. A request for reconsideration must be made by filing such request with the General Accounting Office within 10 days after the reason for reconsideration is known or should have been known, whichever is earlier. Copies of requests for reconsideration must be filed simultaneously with any participating federal agencies and interested parties. The General Accounting Office then decides the reconsideration pursuant to the procedures used for bid protests.

While winning the bid protest is an uphill battle, the odds of winning increase when contractors are familiar with the regulations, procedures of bid protests

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