

Bid Protests – A Proactive Approach to Protecting Your Win

According to a recent Government Accountability Office (GAO) report, protests have increased by approximately 67% since 2007 and the number of protests has increased in each of those years. While some of this increase is attributable to expanded jurisdiction of GAO to hear protests on task and delivery orders in excess of \$10 million, it is clear that other factors are in play, such as:

Budget cuts	Companies fighting harder for fewer contracts and contract value. The playing field has shrunk with the number of players remains the same or more.
Increased competition	Due to the economy more companies are entering the federal marketplace
Government experience	Less experienced contracting officials are more likely to make procurement errors
Contractor experience	Businesses not familiar with Federal requirements, moving into a prime contract position, or bidding on new types of contracts are likely to make proposal errors
More complex contracts	The increase of the use of hybrid contracts and more complex contract types make errors or inconsistencies more likely
Larger contracts	The stakes are higher making protest more likely

Contractors frequently do not start thinking about a bid protest or how to prepare for one until they receive a stay of contract performance, this is far too late. In fact, the most successful defense of a bid protest starts well before the solicitation ever hits the street. The best way to improve your odds of successfully defending a bid protest is to submit a proposal that is prepared within a framework of documented best practices such as:

- Use cost estimates that are realistic and well documented
- Maintain consistency between the cost proposal and the technical proposal
- Changes made based on Q&A are well documented and traceable to the cost proposal
- Indirect rates applied are supported by a documented approach based on historical experience and forward projection of growth and the impact of a large contract award

Well written policies and procedures and properly designed best practices are no guarantee that errors will not be made in the proposal process but they do decrease the chances of an error going undetected prior to submission of flawed proposal. Documenting what you do and doing what you document is not just a matter of good business practice, it also translates directly to the bottom line. This can take the form of a mandatory withhold on existing contracts, the loss of a bid protest or a failed pre-award audit. Even in government contracting, the best offense is a good defense.