

→ Bid Protests

Federal contract awards are frequently challenged – or "protested" – either in the U.S. Court of Federal Claims ("COFC") or before the newly re-named Government Accountability Office ("GAO"), previously known as the General Accounting Office. Such protests are also filed from time to time directly with the procuring agency, either as a "lower profile," more "customer friendly" grievance procedure or as a precursor to a more adversarial proceeding at the COFC or GAO.

Our attorneys have a wealth of experience both (a) in challenging the propriety of an award (should our client be an unsuccessful offeror), and (b) in assisting the Government buyer in defending the award (if our client is the awardee). Our protest experience includes procurements relating to virtually every federal agency and to products and services that cover the entire spectrum of federal expenditures. We have handled protests relating to contracts valued in excess of \$5 billion, and protests involving far more modest contract values. Our experience enables us to tailor our representation to the individualized needs of the client and the particularized requirements of the procurement that is at issue. Moreover, because a number of our attorneys hold national security clearances, we are able to provide representation in connection with matters involving vital national security interests.

Our attorneys are also extraordinarily experienced in the conduct of debriefings, in assisting clients in the conduct of an effective debriefing, and in assessing debriefing results to evaluate, in pragmatic fashion, the prudence of protesting, the likelihood of success, and the type of relief that would ordinarily be available in the event of success.

We have handled protest matters relating to such matters as:

- A challenge to the award of a \$3 billion Navy contract for the development of a new generation of combat vessels
- A \$5 billion contract for the repair and refurbishment of our nation's nuclear arsenal
- Multiple contracts for the award of satellite contracts by a variety of classified and unclassified Government agencies
- A contract for the management of a missile test range for the U.S. Air Force
- A contract for the development and deployment of a new DoD-wide travel management system
- A contract for the acquisition of travel services by the General Services Administration

Generically, we have handled protests involving the following types of recurring issues:

- Non-responsive bids
- The Government's unequal treatment of offerors
- Bid mistakes
- The Government's failure to conduct meaningful discussions

- Best value procurements, including cost/technical trade-offs
- Cost and/or price realism analyses
- Past performance evaluations
- Organizational and/or personal conflicts of interest
- "Bait and switch"
- Restrictive specifications
- "Buy National" restrictions and other non-tariff trade barriers
- Deviations from the announced evaluation criteria
- Unbalanced bidding
- Cardinal changes