

# 533.104 Protests to GAO.

## (a) *General procedures.*

- (1) The expeditious and timely handling of Government Accountability Office (GAO) protests is a GSA priority.
- (2) As soon as GAO receives a protest filed against GSA, it informs the GSA Office of General Counsel (OGC). OGC will —
  - (i) Formally request a Statement of Fact and Position and compilation of documents (see FAR 33.104(a)(3)) from the contracting officer;
  - (ii) Notify the contracting officer of the designated protest counsel (the GSA attorney responsible for handling the case);
  - (iii) Provide GAO with the name, title, and telephone number of one or more GSA officials who may be contacted by GAO regarding the protest.
- (3) If the contracting activity receives a protest before being informed of it by OGC, he/she must immediately forward it to OGC.
- (4) The designated protest counsel is responsible for preparing a report to GAO, based upon the Contracting Officer's Statement of Fact and Position.
- (5) The Contracting Officer's Statement of Fact and Position shall be reviewed by designated protest counsel and the contracting director.
- (6) The Contracting Officer's Statement of Fact and Position and the compilation of documents under FAR 33.104(a)(3)(ii) are due to the designated protest counsel within 10 business days after receipt of the protest by the contracting officer. The time period may be reduced if the GAO so decides. If the contracting officer cannot complete the Statement of Fact and Position and the compilation of documents within the time, the contracting officer must promptly telephone the designated protest counsel with the reason for the delay. The designated protest counsel has the discretion to authorize or disapprove the request; if the extension would delay submission of GSA's report to GAO beyond 30 days from receipt of the protest, the designated protest counsel must first consult with GAO.
- (7) Once the Statement of Fact and Position has been sent to the designated protest counsel, the contracting officer and Regional Counsel are responsible for promptly informing the designated protest counsel of any later developments that may affect the case.
- (8) The contracting officer is responsible for informing all interested parties that a GAO protest has been filed. (See FAR 33.104(a)(2).) This should be done in writing using a method that provides evidence of receipt.

(b) *Competition in Contracting Act (CICA) stay overrides.* GSA requires the contracting officer to prepare the written determination and findings (D&F) under FAR 33.104(b) and (c) and obtain the concurrence of the Associate General Counsel (and Regional Counsel if a regional procurement) before submitting the D&F for the HCA's approval and signature. Once the D&F is signed, the

designated protest counsel must inform GAO of the findings and intention to award, or authorize contract performance, before GSA can actually take the intended action. Copies of the decision must be distributed in accordance with FAR 33.104(d).

(c) *Content of Report to GAO.*

(1) *All reports.* In addition to the requirements of FAR 33.104(a)(3), the GSA report contains all the following:

- (i) GAO protest number (GAO case file number).
- (ii) Solicitation or contract number.
- (iii) Full corporate name of the protesting organization and other firms involved.
- (iv) Statement indicating if the protest was filed before or after award.

(2) *Report for protest after award.* If the protest is filed after award, the report also includes:

- (i) Identity of the awardee.
- (ii) Date of award.
- (iii) Contract number.
- (iv) Date and time of bid opening (including a statement if the date of bid opening was extended by amendments).
- (v) Total number of offerors.
- (vi) Complete chronological statement of all relevant events and administrative actions taken (including reasons and authority for the actions taken).
- (vii) Other relevant documents believed helpful in determining the validity of the protest. This evidence should be referenced and identified within the text of the position statement, alphabetically or numerically, *e.g.*, Tab A, Exhibit 1, etc.

(d) *Notice to GAO.* OGC concurs on the HCA's report to the Comptroller General if GSA has decided not to comply with GAO's recommendation.

**Parent topic:** [Subpart 533.1 - Protests](#)