



DEFENDING YOUR CONTRACT AWARD FROM A BID PROTEST

Earning a government contract is welcome news, but the excitement is short-lived if a disappointed bidder formally challenges (or “protests”) your award. There is little formal guidance for *successful* contractors facing such a challenge, but experience has shown that you can protect your interests in the face of a bid protest. Be proactive, promptly intervene as an “interested party” and actively defend your company’s entitlement to the contract award. Your participation is critical for at least three reasons.

1. The government does not defend your proposal.

The government’s role during a protest is to ensure that *its* procurement process followed the law and was in *its own* best interest. The government may be inclined to stand by its selection of your company, but it has wide discretion and can rebid contracts if the protest is deemed valid. The only way to ensure that your award will be zealously defended is to take charge of its defense. Work with the government to respond to attacks on your proposal and demonstrate that it made the right choice.

2. The stakes are high.

If the protester succeeds, you could lose your contract. Given your investment in the procurement process and the potential impact on your business revenue, it makes little sense to cede defense of your award and passively await protest results. The stakes are especially high if the protester raises an issue requiring your immediate response to maintain equal footing. For example, if the protester requests a re-scoring of *its* proposal, you can and should advocate for a re-scoring of *your* proposal under the same standard.

3. You know your company best.

The protester will try to undermine the government’s decision by criticizing your company’s proposal and capabilities. Set the record straight. By responding to the protester’s arguments, you’ll boost the government’s confidence in your proposal and help defend its selection. This is particularly critical in high profile disputes, where protest records are available and may be of great interest to the public. Disappointed

bidders can use the media to portray your company in a negative light. Defend your company’s good name and ensure that the record also tells your side of the story.

Gallagher & Kennedy can help.

Be advised that government entities each have their own methods for resolving bid protests, ranging from a simple letter to the procurement office, to a formal process and full-scale [administrative hearing](#) (which can include appeals through the courts). It is important to note that protest periods are short in duration, move quickly and can involve complex legal issues.

Gallagher & Kennedy’s public procurement and government affairs teams have significant experience working hand-in-hand with state and local governments to meaningfully and successfully advocate for and defend contract awards of our clients.

PROCUREMENT IN THE NEWS

- [Top 5 Defense Suppliers and Subcontractors in Arizona](#)
- [ALJ Upholds \\$1B Behavioral Health Contract Award Over Magellan Protest](#)
- [Federal Government Awards “No-Bid” Healthcare.gov Contract to Novitas Solutions](#)
- [Maricopa County FY 2014 Budget Includes \\$104M for Construction and IT Contracts](#)
- [ADHS & AHCCCS Seek Public Input on Statewide Behavioral Health Care Reform](#)
- [Arizona Lottery Releases FY 2015 Community Sponsorship RFP](#)

FOR FURTHER INFORMATION, PLEASE CONTACT:

Kevin O’Malley (602) 530-8430	kevin.omalley@gknet.com
Kiersten Murphy (602) 530-8547	kam@gknet.com
Laura Antonuccio (602) 530-8186	laura.antonuccio@gknet.com



2575 East Camelback Road - Phoenix, Arizona 85016-9225
Phone (602) 530-8000 - Fax (602) 530-8500