

# Government Contract Appeal and Protest Time limits

## PROTEST TO COMPTROLLER GENERAL (GAO)

**General Rule 1:** Ten (10) days from adverse agency action. including denial of agency protest if agency protest filed within time allowed by GAO rules.

**General Rule 2:** Ten (10) days from the date you know, or should know, of the basis protest for the protest.

**General Rule 3:** Before submission date for bids or offers if the protest concerns something wrong with the solicitation. An amendment to the solicitation which extends the submission date also extends the cutoff date for a protest. A solicitation defect that was not apparent must be protested within 10 days after it becomes apparent.

On competitive, publicly opened bids, almost all grounds for protest are known at time of bid opening so any protest has to be filed within ten (10) days of bid opening.

On negotiated acquisitions, the grounds for protest may not be learned until after a debriefing or when the government notifies you of the award to a competitor. If a debriefing is requested timely within 3 days of notice of award, and is required, the protest must be filed within 10 days of debriefing.

**Agency Response:** The agency has twenty-five (25) days to respond by filing its report.

**Protestor's Comments:** Protestor has ten (10) days to respond to the legal and factual issues raised in the agency response.

**Decision Time:** GAO has a goal of 90 days to decide protest.

## CLAIMS AND DISPUTES

**Claim:** The absolute rule is that a claim cannot be asserted against the government after final payment has been made on the contract. The contract may impose additional requirements, such as notice of possible claims, which can vary among agencies and contracts. Each contract should be consulted for any possible notice requirements.

**Contracting Officer's Decision.** If the claim is less than \$100,000 the contracting officer's Final Decision must be given within sixty (60) calendar days. If the claim is \$100,000 or more, the contracting officer has sixty (60) days to issue a decision or state when the decision will be issued. If a decision is not issued when promised the claim can be treated as denied and appealed.

**Appeal.** An appeal from a contracting officer's Final Decision can be taken either to the agency's board of contract appeals or to the United States Claims Court.

**Board of Contract Appeals.** An appeal must be filed within ninety (90) calendar days of the receipt of the Final Decision. For claims under \$10,000 there is an informal procedure that can be elected and a decision must be issued with one-hundred twenty (120) days. There is no right

to appeal this decision. For claims under \$100,000 a small claims procedure requires a decision within one-hundred eighty (180) days. There is a right to appeal this decision.

**Court of Federal Claims.** An appeal must be filed within twelve (12) months of receipt of the Final Decision. There is no special procedures for small claims. There is a right to appeal.

**Court of Appeals for the Federal Circuit.** Within one-hundred twenty (120) days an appeal from a decision of a Board of Contract Appeals or the Court of Federal Claims can be filed with the Court of Appeals for the Federal Circuit

## **SMALL BUSINESS ADMINISTRATION**

**NAICS Classification:** Appeal must be filed with Office of Hearings and Appeals ten (10) working days before date for submission of bids or offers. An extension of the date set for submission of bids or offers acts to extend the time to file SIC appeal.

**Size of Business:** Protest of competitors size status must be filed with contracting officer prior to close of business on the fifth (5th) working day after bid or proposal opening. In the case of the negotiated procurement protest must be received within five (5) working days after receipt of notification of identity of prospective awardee. A protest received after the allowable time may still be considered by SBA, but will not apply to the acquisition being protested.

**Time for Decision.** SBA has a goal of issuing a decision within ten (10) working days of receipt of the protest. This decision is made by the regional office in which the challenged business is located.

**Appeal.** An appeal from a regional determination on size status must be filed with the Office of Hearing and Appeal in Washington, D.C. within five (5) working days of receipt of the regional decision in order for it to apply to a pending acquisition. It must be received by SBA within the five (5) days, not merely mailed within that time. An appeal that is received by SBA within 30 calendar days from receipt of the regional determination will be considered and the appeal shall apply to future acquisitions.

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