

BID PROTESTS

At Oles Morrison, our attorneys handle bid protests of all sizes and complexity across many industries. Drawing on experience from our proven record of success winning bid protests and defending contracts awarded to our clients, we regularly represent contractors in pre- and post-award protests at the U.S. Government Accountability Office (GAO), the U.S. Court of Federal Claims (COFC), the FAA Office of Dispute Resolution for Acquisition (ODRA), state courts, and federal, state and local agencies.

Our record of success in bid protests speaks for itself. **Since 2013, our team's sustain rate representing protestors at GAO is approximately four times the national average, and Oles Morrison is one of only two law firms in the nation with a sustain rate in excess of 50% at GAO** (of the 60+ law firms with at least ten merits decisions representing protestors at GAO published during that period).

Communication with our clients about the bid protest process is critical to success. Before we file a protest, we ensure our clients are educated and informed on the protest process, as well as fully apprised of the potential costs, benefits and risks of a protest. We consider not only the chances of winning the protest, but also the potential impacts on customer relations and the likelihood a successful protest could lead to a contract award.

The Legal 500 (2019, 2021, and 2021 Edition) recognized Oles Morrison as one of the leading law firms for Government Contracts and bid protests in the United States.

RECENT PUBLISHED BID PROTEST DECISIONS

While most of our bid protest success occurs without a published decision from GAO or a court, our recent published GAO protest and COFC protest decisions include the following:

- Successful post-award GAO bid protest challenging the award of a \$26 million contract to run the U.S. Department of Education's National Charter School Resource Center. GAO sustained our bid protest on the basis that government had failed to reasonably consider whether the awardee's primary subcontractor had an impaired objectivity organizational conflict of interest. GAO also recommended the government reimburse our client's attorneys' fees. *Safal Partners, Inc., B-416937, B-416937.2, 2019 CPD ¶ 20, 2019 WL 336926 (Comp. Gen. 2019).*
- Successful post-award GAO bid protest challenging S. Air Force's award of an opinion research and support services contract. GAO sustained our protest, finding that the Air Force had erred in its evaluation of the awardee's proposal and recommended that the Air Force properly reevaluate proposals in accordance with the solicitation's evaluation criteria. GAO also denied the Air Force's request for reconsideration. *Barbaricum LLC, B-416728, B-416728.2, 2019 CPD ¶ 153, 2018 WL 8345445 (Comp. Gen. 2018) reconsideration denied, B-416728.3, 2019 CPD ¶ 111, 2019 WL 1349832 (Comp. Gen. 2019).*
- Represented contract awardee in successful defense against a GAO bid protest challenging the U.S. Army's decision to award a \$43 million contract to our client for operations and maintenance services to be provided at the David Grant Medical Center at Travis Air Force Base, California. *Valiant Gov't Servs., LLC, B-416488, 2018 CPD ¶ 311, 2018 WL 4328307 (Comp. Gen. 2018).*
- Successful post-award GAO bid protest challenging the award of a \$375 million contract awarded by NASA for engineering, research, and scientific support services. GAO sustained our client's protest, finding numerous errors in the past performance and cost realism evaluations, and also recommended NASA reimburse our client's attorneys' fees. *Trident Vantage Sys., LLC; SKER-SGT Eng'g & Sci., LLC, B-415944 et al., 2018 CPD ¶ 166, 2018 WL 2355998 (Comp. Gen. 2018).*
- Successful post-award GAO bid protest challenging the U.S. Navy Military Sealift Command's award of a \$32 million O/M contract for the SBX-1 – the floating, self-propelled, mobile radar system used by the U.S. Missile Defense Agency to detect and track incoming ICBMs fired at the United States. GAO sustained our protest, finding that the agency had made numerous errors in its evaluation of the awardee's past performance, and also recommended the agency reimburse our client's attorneys' fees. *TOTE Services, Inc., B-414295, B-414295.2, 2017 CPD ¶ 158, 2017 WL 2417191 (Comp. Gen. 2017).*
- Successful pre-award bid protest challenging FHWA's decision to re-solicit and re-evaluate proposals based on revised criteria set forth in an amendment to the solicitation. The U.S. Court of Federal Claims held FHWA's actions to be arbitrary and capricious and issued a permanent injunction in favor of our client. *Professional Service Industries, Inc. v. U.S., 129 Fed. Cl. 190 (2016).*
- Successful post-award GAO bid protest challenging FHWA's award of an \$18 million laboratory support services contract. GAO sustained our client's protest, finding that the awardee's proposed key personnel failed to meet the solicitation's minimum qualification requirements, and also recommended FHWA reimburse our client's attorneys' fees. *Professional Service Industries, Inc., B-412721.2 et al., 2016 CPD ¶ 234, 2016 WL 4582238 (Comp. Gen. 2016).*
- Successful post-award bid protest challenging the Army's award of an approximately \$90 million small business set-aside contract for logistical support services in Hawaii. The U.S. Court of Federal Claims found numerous grounds to sustain our client's bid protest. *Dellew v. U.S., 127 Fed. Cl. 85 (2016).*

- Successful post-award bid protest challenging the Navy's award of a nearly \$70 million contract for janitorial and custodial services at Walter Reed Medical Center to the incumbent contractor. The Navy took corrective action, reevaluated proposals and awarded our client the contract. We then successfully defended that award against a bid protest by the incumbent contractor at the U.S. Court of Federal Claims. *NVE, Inc. v. U.S.*, 121 Fed. Cl. 169 (2015).
- Successful defense of a post-award bid protest at the U.S. Court of Federal Claims challenging the USDA's award of an IT help desk services contract to our client under the AbilityOne Program. *Nat'l Telecommuting Inst., Inc. v. United States*, 123 Fed. Cl. 595 (2015).
- Successful post-award GAO bid protest of the GSA's award of a contract for a multi-site custodial and maintenance services contract in Texas, which was set-aside for service-disabled, veteran-owned small businesses. GAO sustained our client's bid protest, finding that GSA's evaluation of the awardee's proposal under the solicitation's experience factor was inconsistent with the terms of the solicitation, and also recommended GSA reimburse our client's attorneys' fees. *Quality Services International, LLC, B-410156, et al.*, 2014 CPD ¶ 330, 2014 WL 6657714 (Comp. Gen. 2014)
- Successful pre-award GAO protest challenging the Navy's elimination of our client from the competitive range in a procurement for base operations services valued at nearly \$350 million. GAO sustained our client's bid protest, finding that the Navy failed to conduct meaningful discussions with our client and failed to properly consider information provided in our client's revised proposal, and also recommended the Navy reimburse our client's attorneys' fees. *West Sound Services Group, LLC, B-406583.2, B-406583.3*, 2013 CPD ¶ 276, 2013 WL 6247506 (Comp. Gen. 2013).