

# GOVERNMENT CONTRACTS PRACTICE

## BID PROTESTS

### WINNING PROTEST EXPERIENCE

Bass, Berry & Sims' Government Contracts Practice Group together has decades of bid protest experience representing protesters and intervenors at both the GAO and the Court of Federal Claims. Together, we have handled well over 100 protests representing both large and small businesses, and, while many bid protest actions are resolved by corrective action, are counsel of record in dozens of reported decisions.

### OUR TEAM



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### REPRESENTATIVE MATTERS (PROTESTER)

#### Successful Protest Filed with ODRA on Behalf of MOSA Technology Solutions LLC

We filed a protest with the Federal Aviation Administration (FAA) Office of Dispute Resolution for Acquisition (ODRA) on behalf of MOSA Technology Solutions LLC, a biometric authentication solutions provider based in Florida. The protest argued that the FAA improperly awarded a contract for fingerprint scanners based on a miscalculated evaluation of the awardee's proposed pricing, specifically a warranty option that could not reasonably be satisfied. ODRA agreed the methodology used by the awardee was insufficient and sustained the protest. With the awardee's miscalculations taken into account, MOSA's proposal became the lowest-priced comparatively. Accordingly, the agency was directed to make award to MOSA.

#### Successful Bid Protest at GAO and CFC

We represented FavorTech, a Service-Disabled Veteran-Owned small business, in a successful bid protest that required multiple filings at both the GAO and the CFC. Following the filing of a GAO protest, which challenged the award of three Blanket Purchase Agreements (BPAs) made to three separate awardees by the government, the agency announced that it would not implement a stay of performance as required by CICA. We then filed a separate protest action at the CFC to enforce the automatic stay. The court ruled that the agency's actions were arbitrary and capricious, and the government was ordered to implement a stay of performance pending the resolution of the GAO protest. Ultimately, the protests before GAO and the CFC led to the company receiving an award of a BPA from the agency.

#### GAO Bid Protest on Behalf of Arkel International, LLC

We filed a GAO protest on behalf of Arkel International, LLC, a Louisiana-based company that works primarily on contracts performing overseas. Arkel was an offeror on a procurement for the Department of State (State) for the acquisition of design/build services for Unclassified Containerized Housing Units (CHUs). State awarded indefinite-quantity, indefinite-delivery contracts to six offerors, but initially did not choose Arkel. The protest challenged State's evaluation of the offerors' pricing, specifically alleging that State ignored stated requirements in the Solicitation. In response to the protest, State elected to take corrective action and make additional awards to Arkel and one other offeror. Thus, Arkel received a contract award and is now eligible to compete for task orders for the CHUs.

#### Successful Bid Protest on Behalf of Service-Disabled Veteran-Owned Small Business

We filed a protest on behalf of Turtle Reef Holdings, LLC, a Service-Disabled Veteran-Owned small business. The protest challenged an award for Business Intelligence Solution services made by the Department of Veterans affairs. The VA initially defended its award decision in its Agency Report, but our team filed Comments to the Agency Report thoroughly demonstrating that the evaluation and award decision was fundamentally flawed. The VA eventually agreed with the positions made in the protest and elected to take corrective action. The VA reevaluated proposals and made a new award decision, keeping Turtle Reef in the running for the award.

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### ABOUT BASS, BERRY & SIMS

Bass, Berry & Sims' Government Contracts Practice Group assists clients in meeting the demanding and ever-changing regulatory environment of contracting with federal, state and local governments. Whether we are guiding companies through their bid protests or government claims, or assisting clients to ensure compliance and manage risk that comes with doing business with the federal government, our team is intimately familiar with the full spectrum of issues that impact government contractors. In addition, we have the requisite security clearances to assist on most classified matters.

### STAY CONNECTED



The Bass, Berry & Sims Government Contracts & International Trade blog features news, commentary and insight on the demanding and ever-changing regulatory environment of contracting with federal, state and local governments, and international trade issues when conducting a global business.

Subscribe to our Government Contracts & International Trade blog at [www.bassberrygovcontrade.com](http://www.bassberrygovcontrade.com).

### REPRESENTATIVE MATTERS (INTERVENOR)

#### Successful Defense of Federal Law Enforcement Training Center Award, Size Protest, and Stay Override

We successfully defended the award to B&O JV, an 8(a) joint venture, of a contract by the Federal Law Enforcement Training Center for dorm maintenance and other services against an SBA size protest, and multiple GAO bid protests, both pre- and post-award. In addition, we intervened successfully in a Court of Federal Claims bid protest action in which the disappointed offeror behind the various GAO and SBA protests challenged the agency's determination to override the stay of performance imposed by the Competition and Contracting Act after the second GAO post-award bid protest. The court twice denied the protester's request for a preliminary injunction, the second time in a 48-page published decision. We also represent B&O JV in the appeal of that decision, which is currently pending before the Federal Circuit.

#### Successful Defense of \$143 Million Department of the Army Task Order in GAO Bid Protest

We successfully defended an award to CWU, a Service-Disabled, Veteran-Owned small business. The Army Intelligence and Security Command awarded a task order to CWU for classified linguist services in support of ongoing mission requirements for U.S. Central Command and African Command. After two rounds of protests by the incumbent and multiple rounds of briefings, the GAO denied the incumbent's protest in its entirety; within hours of the decision, our client assumed control of the contract.

#### Successful Defense of Golden SVCS in Bid Protest of \$65 Million Security Guard Services Award

We successfully represented Golden SVCS LLC in a bid protest involving security guard services for several Department of Energy facilities in Oak Ridge, Tennessee. Golden SVCS is a Service-Disabled Veteran-Owned small business based in Oak Ridge, Tennessee. We intervened on the company's behalf, and joined the government in convincing the GAO to deny the protest and allow our client to proceed with the \$65 million contract.

#### Significant Bid Protest Win at GAO

We successfully represented 77 Construction, along with the Navy, in a bid protest involving water repair systems. We convinced the GAO to dismiss the protest and allow 77 Construction to proceed with the \$6.5 million contract for work in Djibouti, Africa.

#### Successful Defense of Small Business Award for Computer Software Inventor

We represented Summit2Sea Consulting, a company specializing in computer software development, as an intervenor in a GAO protest. Summit2Sea was awarded a task order worth nearly \$29 million through the company's Federal Supply Schedule contract. A disappointed offeror protested to GAO, making several arguments about the procuring agency's (DARPA) evaluation of both its quotation and Summit2Sea's quotation. Ultimately, the award to Summit2Sea was upheld and the protest denied.