

Bid Protests

Practices and Industries

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Haynes Boone attorneys are recognized experts in bid protests, frequently representing contractors in pre- and post-award protests before the Government Accountability Office and U.S. Court of Federal Claims, as well as federal and state agencies, the Federal Aviation Administration, state courts and state Boards of Contract Appeals. We also assist awardees defending protests by competitors.

Haynes Boone attorneys have represented protesters and awardees in protests involving the full-range of federal procurement issues, including: solicitation defects, sole source awards, task and delivery orders, GSA and U.S. Department of Veterans Affairs schedule contracts, untimely bids, unequal discussions, past performance, responsibility and integrity issues, fraud, unreasonable technical evaluations, cost and pricing, best value determinations, unduly restrictive specifications, organizational conflicts of interest (“OCI”), key personnel and staffing issues, small business set-aside procurements, minority and disadvantaged business issues, commercial item acquisitions, and information technology and cybersecurity certification standards.

In addition to federal bid protests, we represent clients in protests before state agencies, state administrative boards and state courts. In some states, Haynes Boone attorneys are admitted pro hac vice or work with local counsel. Our attorneys have represented protesters and awardees in dozens of states, including recent significant victories at the Maryland State Board of Contract Appeals and Maryland Board of Public Works.

Representative Bid Protest Matters

- *Voith Hydro, Inc. v. United States*, 143 Fed. Cl. 201 (2019). We successfully represented the awardee of a \$500 million U.S. Army Corps of Engineers contract to design, supply, and install hydroelectric turbines in 14 hydroelectric generator units. In response to a competitor’s protest challenging almost every aspect of the agency’s evaluation, including technical, past performance, price, and best value trade off, the court upheld award to our client, denying the protest.
- *FMS Investment Corp., et al. v. United States*, 139 Fed. Cl. 221 (2018). We successfully represented a bidder in a decision that confirmed the limits of federal agency discretion in cancelling procurements. On behalf of our client, we moved to permanently enjoin the

Department of Education from canceling a solicitation for collection and administrative resolution of debts resulting from non-payment of federal student loans and grants. The court agreed with our arguments, holding cancellation of the solicitation was irrational and arbitrary and capricious, and issued a permanent injunction prohibiting cancellation.

- *Grant Thornton, LLC*, B-416733, Nov. 29, 2018, 2018 CPD ¶ 411. We successfully represented a protestor challenging General Services Administration solicitation requirements. GAO agreed with our arguments, granting the protest and recommending the agency amend the solicitation. In the decision, GAO clarified the rules governing federal procurement terms under the Federal Supply Schedule (“FSS”) program. GAO also recommended for the agency to reimburse our client’s reasonable cost associated with pursuing the protest, including attorney’s fees.