

choose to protest ADPE procurements before the GAO, the contracting officers or the courts.

GSBCA provides the protestor a formal hearing and full discovery. However, GSBCA litigation is more expensive than the GAO process.

Unlike GAO, GSBCA's decisions are mandatory. These decisions revoke or revise the agency's ADPE procurement authority if the GSBCA finds that the agency violated a procurement statute or regulations. If the GSBCA revokes the agency's authority, the government will be required to resolicit and reevaluate a proposal, whichever is appropriate. The GSBCA also may find that an already awarded contract is void, force immediate termination of the agreement, and direct award of the contract to the protestor.

Legal fees and costs are recoverable by a prevailing protestor at the GSBCA. GSBCA's cost awards also are mandatory, not advisory like GAO's awards. The fees must be shown to be reasonable, but GSBCA does not usually employ exacting analysis of this issue.

The Claims Process. The claims process has fewer alternatives than the protest process. If you believe you are entitled to more money under a government contract, you file a written claim to the contracting officer describing why you are entitled to additional money, stating the amount you think you are entitled to, and demand a decision. Like the GAO protest process, all you need to start the claims process is paper and postage. Typically, you must continue to perform under the disputed contract while the claim gets resolved. A dispute is generally no reason to walk off a government job.

Your claim will get a written decision by the contracting officer, often within 60 days. If you are not satisfied with the officer's resolution of your claim, you can appeal that decision to either the Corps of Engineers Board of Contract Appeals (ENGBCA) or the Court of Federal Claims (COFC).

The board is cheaper and more informal. The court is more formal and more costly. Many cases are brought before the board without an attorney. A lawyer is typically needed to appeal a contracting officer's decision to the COFC.

Inexperienced government contractors often want to appeal to the COFC, believing that the ENGBCA is a rubber-stamp for the Corps. That is not the case; judges on the board are legally independent from the Corps and often act that way.