

United States Court of Federal Claims Bid Protests: The Basics

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Pursuant to 28 U.S.C. sec. 1491(b), USCFC Bid Protests are administered under the Appendix C to the Court's Rules in procurement protest cases.

28 U.S.C. sec. 1491(b) states that:

(1.) Both the United States Court of Federal Claims and the district courts of the United States shall have jurisdiction to render judgment on an action by an interested party objecting to a solicitation by a Federal agency for bids or proposals for a proposed contract or to a proposed award or the award of a contract or any alleged violation of statute or regulation in connection with a procurement or a proposed procurement. Both the United States Court of Federal Claims and the district courts of the United States shall have jurisdiction to entertain such an action without regard to whether suit is instituted before or after the contract is awarded.

(2) To afford relief in such an action, the courts may award any relief that the court considers proper, including declaratory and injunctive relief except that any monetary relief shall be limited to bid preparation and proposal costs.

(3) In exercising jurisdiction under this subsection, the courts shall give due regard to the interests of national defense and

national security and the need for expeditious resolution of the action.

(4) In any action under this subsection, the courts shall review the agency's decision pursuant to the standards set forth in section 706 of title 5.

(5) If a private sector interested party commences an action described in paragraph (1) in the case of a public-private competition conducted under Office of Management and Budget Circular A76 regarding performance of an activity or function of a Federal agency, or a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A76, then an official or person described in section 3551 (2)(B) of title 31 shall be entitled to intervene in that action.

(c) Nothing herein shall be construed to give the United States Court of Federal Claims jurisdiction of any civil action within the exclusive jurisdiction of the Court of International Trade, or of any action against, or founded on conduct of, the Tennessee Valley Authority, or to amend or modify the provisions of the Tennessee Valley Authority Act of 1933 with respect to actions by or against the Authority.

In Accordance with FAR 33.105 – Protests at the U.S. Court of Federal Claims:

Procedures for protests at the U.S. Court of Federal Claims are set forth in the rules of the U.S. Court of Federal Claims.

ABOUT THE AUTHOR

Frank V. Reilly is a [Martindale - Hubbell Peer Reviewed Attorney](#) with a perfect 5.0/5.0 Peer Rating. Martindale-Hubbell® Peer Review Ratings™ are the gold standard in attorney ratings, and have been for more than a century.

Mr. Reilly practices federal procurement law in Washington, DC.