

GAO SUSTAINED PROTESTS DECREASE SIGNIFICANTLY IN 2017

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The Government Accountability Office (“GAO”) released its annual bid protest report to the Congress for fiscal year 2017 on November 13, 2017 (B-158766). The GAO actually received 2,672 protests in FY2017, but dismissed or immediately denied nearly 80 percent of them, while actually considering and issuing decisions on only 581 protests, known as “merit decisions.”

The GAO sustain rate decreased six percent, from an unusually high 23 percent in 2016 to 17 percent in 2017. The actual number of sustained protests declined from 139 in 2016 to 99 in 2017. All of this took place while the number of actual bid protest decisions decided on the merits remained about the same (616 in 2016 and 581 in 2017).

The GAO bid protest statistics for fiscal years 2012-2017 were as follows:

GAO Bid Protest Statistics for Fiscal Years 2012-2017

	FY2012	FY2013	FY2014	FY2015	FY2016	FY 2017
Merit decisions	570	509	556	587	616	581
Sustained	106	87	73	68	139	99
Sustain rate	19%	17%	13%	12%	23%	17%
Effectiveness rate	42%	43%	43%	45%	46%	47%
Alternative Dispute Resolution (ADR) cases	106	145	96	103	69	81
ADR success rate	80%	86%	83%	70%	84%	90%
Hearings	6% (56 cases)	3% (31 cases)	5% (42 cases)	3% (31 cases)	3% (27 cases)	2% (17 cases)

The “effectiveness rate” remained about the same—nearly 50 percent. These are protests where the protester obtains some form of relief from the agency, either as a result of voluntary agency corrective action or the protest being sustained.

The percentage of cases where the GAO conducted a hearing remained small—only 2 percent in 2017.

GAO also reported that:

- There were no instances in which a federal agency did not fully implement a GAO recommendation; and
- GAO issued its decision on every protest within 100 days, as required by law.

Finally, the GAO reported on the most prevalent reasons for sustaining protests that were actually resolved on the merits in FY 2017. These were:

1. Unreasonable technical evaluation
2. Unreasonable past performance evaluation
3. Unreasonable cost or price evaluation
4. Inadequate documentation of the record

5. Flawed selection decision

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