

## **EPDS Best Practices (JUNE 2019)**

### **Reference Materials**

- The GAO website has videos, instructions, and other guidance to assist users in navigating EPDS. Please visit: <https://www.gao.gov/legal/bid-protests/file-a-bid-protest>
- Video topics include:
  - Registering as a new user
  - Logging into and navigating EPDS
  - Filing a new bid protest (See also Protester/Intervenor User Guide at 5.1)
  - Submitting a request to intervene (See also Protester/Intervenor User Guide at 6.0)
  - Adding a co-representative (See also Protester/Intervenor User Guide at 5.4.2)
  - Joining a case as an agency representative (See also Agency User Guide at 6.5)

### **Access to EPDS**

- To ensure delivery of emails, users should ensure that emails from [epds@epds.gao.gov](mailto:epds@epds.gao.gov) are added to their safe senders list or users should consult with their respective IT administrators to ensure that emails are added to their organizations' "white" or excepted lists.

### **EPDS Docket Maintenance**

- To prevent unnecessary duplication, absent a compelling reason (e.g., technical unavailability of EPDS) users should not submit duplicative filings to [protests@gao.gov](mailto:protests@gao.gov), or by fax or other means.

### **Filing A New Protest**

- When filing a new protest, please do not hit the back button, attempt to navigate to another page, or open a new window or tab. Doing so may result in the failure of your protest from properly being submitted in EPDS.
- Notwithstanding filing a new protest in EPDS, the protester must also serve a copy of the protest, including all attachments, to the individual or location designated by the agency in the solicitation for receipt of protests, or if there is no

designation, to the contracting officer, not later than 1 day after the protest is filed with GAO. See Bid Protest Regulations, 4 C.F.R. § 21.1(e).

## **Filings in EPDS**

- Parties may indicate that they have no objection to routine filings or requests (e.g., protective order applications or waiver of 2-day hold under protective order) by using the “no objection to \_\_\_\_” option. See Agency User Guide at 7.4.1; Protester/Intervenor User Guide at 7.5.2.
- EPDS offers filers the ability to add comments when filing a document. The comments box is an optional field. See e.g., Agency User Guide at 7.2.7; Protester/Intervenor User Guide at 7.2.6.
- If a filing is related to a previous docket entry, please use the comments box to reference the docket number to which the later filing refers.
- When an agency is filing its agency report, which may include the submission of filings that contain multiple attachments, a zip file is preferred to multiple docket entries with one attachment.
- Similarly, when counsel is submitting protective order (PO) applications, filers should submit one .pdf document containing all PO applications and list the applicants’ names in the comments box, rather than creating an individual docket entry for each PO application.
- Important: Even if a protective order has been issued, text in the comments box is reviewable by all parties, whether or not they have been admitted to the protective order. Therefore, only publicly releasable information should be included in the comments box.

## **EPDS and Protected Information**

- Prior to the issuance of a protective order and a non-agency party’s admission to the protective order, parties will be able to submit documents marked as protected. For example, the protester may mark the initial protest filing as a protected document. Access to those documents will be limited to the party that submitted the filing, the agency, and the GAO. Other parties will be able to see the docket entry, but the link to the underlying document will be grayed out and inaccessible. This will be the status quo functionality for protected documents

until (a) the issuance of a protective order; (b) a party's admission to the protective order; and (c) GAO has granted the party's EPDS representatives the appropriate access in the system. Once a party's representative has been admitted to the protective order and granted the appropriate access in EPDS, the representative will have access to all protest filings. In order for a party not admitted to the protective order to access a document, the document must be marked as the final redacted version. See Agency User Guide at 7.2; Protester/Intervenor User Guide at 7.2. All other documents, to include documents identified as not containing protected information, will remain inaccessible in EPDS to a party without a representative admitted to the protective order.

- In instances where a protester is proceeding without counsel and the protest may require the disclosure of information that could be considered proprietary, confidential, or otherwise not releasable to the public, the parties, in an abundance of caution, should mark such information as protected. At that point, the document will only be accessible to the party submitting the document, the agency, and GAO. Because EPDS does not allow parties that are not admitted to the protective order to access docket entries marked as protected, the parties should determine whether, and the method by which, such information should be provided outside of EPDS. Thereafter, the parties should coordinate and agree upon the final redacted version that should be filed with EPDS. Additionally, please note that EPDS does not contemplate party-specific redacted versions of filings. If a party has questions regarding the appropriate protection of documents or making filing outside of EPDS, please contact the GAO attorney assigned to the protest for clarification.
- In addition to properly indicating in EPDS whether a document contains "information that is proprietary, confidential, or otherwise not releasable to the public," the filer is also responsible for ensuring that it complies with all of its obligations under the protective order, including, for example, properly marking the documents as containing protected material in accordance with the terms of the protective order, and filing a final, agreed-upon redacted version. See EPDS Instructions, section III.13(b).

### **Party Absences**

- Parties are responsible for notifying GAO and the other parties of any anticipated absences, as EPDS currently does not provide an out-of-office message feature contained in most email systems.
- Where possible, agencies should ensure that they have designated at least two points of contact (POC) to ensure timely receipt of notices of the filing of new

protests, or utilize a shared email box for the receipt of new protest notifications generated by EPDS. Agencies must contact [protests@gao.gov](mailto:protests@gao.gov) to request the creation of POC accounts, and should provide the user's name, email address, phone number, and mailing address. Additionally, to the extent an agency has not previously established the use of a shared email box for receipt of new protest notifications, the agency should submit a request to [protests@gao.gov](mailto:protests@gao.gov) with the appropriate email address information.

This document will be reviewed and periodically updated, as necessary.