



B-158766

December 12, 2025

Re: GAO Bid Protest Annual Report to Congress for Fiscal Year 2025

Congressional Committees:

This letter responds to the requirements of the Competition in Contracting Act of 1984, 31 U.S.C. § 3554(e)(2) (CICA), that the Comptroller General report to Congress each instance in which (1) a federal agency did not fully implement a recommendation made by our Office in connection with a bid protest during the prior year, and (2) each instance in which a final decision in a protest was not rendered within 100 days after the date the protest is submitted to the Comptroller General. During fiscal year 2025, we issued final decisions within 100 days for all protests filed with GAO. In this letter we also provide data concerning our overall protest filings for the fiscal year. Finally, this letter also addresses the requirement under CICA that our report "include a summary of the most prevalent grounds for sustaining protests" during the preceding year. 31 U.S.C. § 3554(e)(2).

Agency Failure to Fully Implement Recommendations

For fiscal year 2025, one federal agency declined to implement the recommendations made by our Office in connection with a bid protest. By letter dated June 2, 2025, we reported an occurrence involving the Department of the Air Force: *ATP Gov, LLC*, B-422938, B-422938.2, Dec. 12, 2024, 2024 CPD ¶ 306, which involved a procurement for military satellite terminal assemblies. As explained in our June 2 letter, the protest concerned whether the Air Force made an award to a firm whose product did not meet the material requirements of the solicitation.

The protest revealed that the Air Force announced one standard for evaluating proposals in the solicitation but evaluated the offers it received using a different standard. More specifically, the agency informed offerors that the terminals they proposed were required to meet certain certification requirements at the time of proposal submission but then made an award to an offeror that proposed a terminal assembly that was not certified at the time of proposal submission, and the agency permitted that offeror to seek certification for the terminal assembly after award. In sustaining the protest, we found that the agency's decision to make an award to a proposal that did not meet the announced requirements of the solicitation was unreasonable and that the agency's error competitively harmed the protester. As explained in our June 2 letter, we recommended that the agency either reevaluate the proposals it received in accordance with the terms of the solicitation and make an award to an offeror that met the solicitation's requirements, or, if the agency's needs were not

reflected by the solicitation, to amend the solicitation and resolicit. We also recommended the agency reimburse the protester the costs of filing and pursuing its protest.

More than one month after we issued our decision, the agency filed a request for modification of our recommended remedy. Specifically, the agency explained that because there was no automatic stay of performance during the protest, the agency permitted the awardee to continue performing the contract. As a result, the agency argued that implementing our recommendation to reevaluate proposals or amend the solicitation would involve unspecified costs and unacceptable delays. As alternative relief, the agency requested that we amend our recommendation to recommend that the protester be reimbursed its reasonable costs incurred to prepare its proposal as well as its reasonable costs incurred in pursuing its protest. However, because the agency's request was filed more than 10 days after the agency knew the basis for its request for reconsideration, we dismissed the agency's request as untimely consistent with our Bid Protest Regulations.

Following our dismissal of the request, the Air Force advised our Office that it did not intend to fully implement our recommendation. Specifically, the agency represented that it would reimburse the protester the costs of filing and pursuing its protest, but that it would not implement our recommendation to reevaluate proposals or amend the solicitation because it would involve substantial costs and delays, which would have unacceptable impacts on national security. The Air Force also advised our Office that it would not reimburse the protester its proposal preparation costs.

Enclosed for your information is a copy of our letter of June 2 reporting the Department of the Air Force's failure to implement our recommendations. As discussed in the letter, while we do not recommend additional legislative action with respect to our recommendation to either reevaluate proposals or amend the solicitation and solicit revised proposals, we do recommend that Congress enact a private bill directing the Air Force to reimburse the protester its reasonable proposal preparation costs, a remedy that the Air Force itself proposed as part of their request to modify our recommended remedy, but which they no longer intend to perform.

Summary of Overall Protest Filings

During the 2025 fiscal year, we received 1,688 cases: 1,617 protests, 24 cost claims, and 47 requests for reconsideration. We closed 1,737 cases during the fiscal year: 1,676 protests, 20 cost claims, and 41 requests for reconsideration. Of the 1,737 cases closed, 359 were attributable to GAO's bid protest jurisdiction over task orders. Enclosed for your information is a chart comparing bid protest activity for fiscal years 2021-2025.

Most Prevalent Grounds for Sustaining Protests

Of the protests resolved on the merits during fiscal year 2025, our Office sustained 14 percent of those protests. Our review shows that the most prevalent reasons for

sustaining protests during the 2025 fiscal year were: (1) unreasonable technical evaluation;¹ (2) unreasonable cost or price evaluation;² and (3) unreasonable rejection of proposal.³ It is important to note that a significant number of protests filed with our Office do not reach a decision on the merits because agencies voluntarily take corrective action in response to the protest rather than defend the protest on the merits. Agencies need not, and do not, report any of the myriad reasons they decide to take voluntary corrective action.

I trust this information is useful. If you have any questions, please feel free to reach out to the Managing Associate General Counsels for Procurement Law, Kenneth Patton at 202-512-8205 and Edward Goldstein at 202-512-4483.

Sincerely,



Edda Emmanuelli Perez
General Counsel

Enclosure

¹ *E.g., emissary LLC*, B-422388.3, B-422388.4, July 29, 2025, 2025 CPD ¶ 177 (finding the agency's technical evaluation of the awardee's proposal unreasonable, in part, where under the management and staffing approach element, the agency credited the awardee as proposing staff for the required 11-month period, but the awardee only proposed staffing for 9 months).

² *E.g., KBR Servs., LLC; Vectrus Systems Corp.*, B-422697 *et al.*, Oct. 4, 2024, 2024 CPD ¶ 203 (finding the agency's cost/price evaluation unreasonable where the awardee's proposal failed to include its subcontractor's cost/price information, as required by the solicitation, and the agency improperly attempted to cure the awardee's proposal by creating the information that the awardee failed to provide by developing a risk-adjusted price using other information in the awardee's proposal).

³ *E.g., SynergisT JV, LLC*, B-422384.2, B-422384.4, Mar. 11, 2025, 2025 CPD ¶ 83 (finding the agency's decision to reject the protester's quotation for providing labor categories (LCATs) under special item numbers (SINs) other than the SIN under which the solicitation was issued unreasonable where the solicitation did not expressly limit vendors from quoting LCATs under a specific SIN).

List of Congressional Committees

The Honorable Susan Collins
Chair
The Honorable Patty Murray
Vice Chair
Committee on Appropriations
United States Senate

The Honorable Rand Paul, M.D.
Chairman
The Honorable Gary C. Peters
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Tom Cole
Chairman
The Honorable Rosa DeLauro
Ranking Member
Committee on Appropriations
House of Representatives

The Honorable James Comer
Chairman
The Honorable Robert Garcia
Ranking Member
Committee on Oversight and Government Reform
House of Representatives

Bid Protest Statistics for Fiscal Years 2021-2025

	FY2025	FY2024	FY2023	FY2022	FY2021
Cases Filed ¹	1688 (down 6%)	1803 (down 11%) ²	2025 (increase of 22%)	1658 (down 12%)	1897 (down 12%)
Cases Closed ³	1737	1706	2041	1655	2017
Merit (Sustain + Deny) Decisions	380	386	608	455	581
Number of Sustains	53	61	188	59	85
Sustain Rate	14%	16%	31%	13%	15%
Effectiveness Rate ⁴	52%	52%	57%	51%	48%
ADR ⁵ (cases used)	53	76	69	74	76
ADR Success Rate ⁶	91%	92%	90%	92%	84%
Hearings ⁷	.5% (3 cases)	.2% (1 case)	2% (22 cases)	.27% (2 cases)	1% (13 cases)

¹ All entries in this chart are counted in terms of the docket numbers ("B" numbers) assigned by our Office, not the number of procurements challenged. Where a protester files a supplemental protest or multiple parties protest the same procurement action, multiple iterations of the same "B" number are assigned (*i.e.*, .2, .3). Each of these numbers is deemed a separate case for purposes of this chart. Cases include protests, cost claims, and requests for reconsideration.

² From the prior fiscal year.

³ Of the 1,737 cases closed in FY 2025, 359 are attributable to GAO's bid protest jurisdiction over task or delivery orders placed under indefinite-delivery, indefinite-quantity contracts.

⁴ Based on a protester obtaining some form of relief from the agency, as reported to GAO, either as a result of voluntary agency corrective action or our Office sustaining the protest. This figure is a percentage of all protests closed this fiscal year.

⁵ Alternative Dispute Resolution.

⁶ Percentage of cases resolved without a formal GAO decision after ADR.

⁷ Percentage of fully developed cases in which GAO conducted a hearing; not all fully developed cases result in a merit decision.



U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.
Washington, DC 20548

Comptroller General
of the United States

B-422938, B-422938.2

June 2, 2025

The Honorable Susan Collins
Chair
The Honorable Patty Murray
Vice Chair
Committee on Appropriations
United States Senate

The Honorable Rand Paul, M.D.
Chairman
The Honorable Gary C. Peters
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Tom Cole
Chairman
The Honorable Rosa DeLauro
Ranking Member
Committee on Appropriations
House of Representatives

The Honorable James Comer
Chairman
Ranking Member
Committee on Oversight and Government Reform
House of Representatives

Subject: *ATP Gov, LLC*, B-422938, B-422938.2, Dec. 12, 2024, 2024 CPD ¶ 306

This letter is submitted pursuant to 31 U.S.C. § 3554(e)(1), which requires our Office to report any case in which a federal agency fails to fully implement a recommendation from the Comptroller General in a bid protest decision. As required by that statute, this letter includes a review of the procurement addressed in our decision, including the circumstances surrounding the failure of the contracting agency to implement the recommendation made in the decision. In addition, the statute requires that we address whether we recommend that Congress consider legislative action in order to correct an inequity or to preserve the integrity of the procurement process. In this letter we include

a recommendation that Congress take action to correct inequities highlighted by this bid protest.

The subject bid protest decision, *ATP Gov, LLC*, B-422938, B-422938.2, Dec. 12, 2024, 2024 CPD ¶ 306, addressed the actions of the Department of the Air Force in a procurement for military satellite terminal assemblies. The protest issues concerned whether the agency made an award to a firm whose product did not meet the material requirements of the solicitation. As discussed in the decision and in more detail in the attached appendix, the protest revealed that the Department of the Air Force announced one standard for evaluating proposals in the solicitation, but evaluated the offers it received using a different standard. In sum, the agency informed offerors that the terminals they proposed were required to meet certain certification requirements at the time of proposal submission, but then made an award to an offeror that proposed a terminal assembly that had been modified in such a way that it was not certified at the time of proposal submission, and the agency permitted that offeror to seek re-certification for the terminal assembly after award. We sustained the protest because we found that the agency's decision to make an award to a proposal that did not meet the announced requirements of the solicitation was unreasonable. We also found that this error competitively harmed the protester because the protester proposed a more expensive and less desirable terminal assembly because the protester believed that the agency required a terminal assembly that was already certified at the time of proposal submission.

Thus, we recommended that the agency either reevaluate the proposals it received in accordance with the terms of the solicitation and make an award to an offeror that met the solicitation's requirements, or, if the agency's needs were not reflected by the solicitation, to amend the solicitation and resolicit. We also recommended the agency reimburse ATP the costs of filing and pursuing its protest. More than one month after we issued our decision, the agency filed a request for modification of our recommended remedy. Of note, the agency's request explained that the agency did not contend that our decision contained errors of fact or law, but rather only asked us to modify our recommended remedy. Specifically, the agency explained that, because the protester did not file its protest within five days of receiving a debriefing, there was no automatic stay of performance during the protest, and the agency permitted the awardee to continue performing the contract. As a result, the agency argued that implementing our recommendation to reevaluate proposals or amend the solicitation would involve unspecified costs and unacceptable delays. As alternative relief, the agency requested that we amend our recommendation to recommend that the protester be reimbursed its reasonable costs incurred to prepare its proposal as well as its reasonable costs incurred in pursuing its protest. However, because that request was filed more than 10 days after the agency knew the basis for its request for reconsideration, we dismissed the agency's request as untimely consistent with our Bid Protest Regulations.¹

¹ Our regulations do not provide us with discretion concerning whether to dismiss untimely requests for reconsideration, and the same rules apply to requests filed by federal agencies as to any other party seeking reconsideration. See *United States Marine Corps--Recon.*, B-417830.2, Mar. 6, 2020, 2020 CPD ¶ 99 at 4 n.1 (concluding

Following our dismissal of the request, the Department of the Air Force has advised our Office that it does not intend to fully implement our recommendation. Specifically, the agency contends that implementing our recommendation to reevaluate proposals or amend the solicitation would involve substantial costs and delays, which would have unacceptable impacts on national security. The agency does not object to paying ATP's costs of filing and pursuing its protest and intends to implement that portion of our recommendation, but no longer proposes to pay the protester's proposal preparation costs.

As detailed in the appendix below, we do not agree with the agency's decision not to fully implement our recommendation. However, we do not recommend additional legislative action with respect to our recommendation to either reevaluate proposals or amend the solicitation and solicit revised proposals. We do note that the Air Force's request for reconsideration previously proposed to reimburse the protester for its proposal preparation costs. In making this proposal, the Air Force noted that this would provide the protester with some relief for the costs it incurred in competing for the agency's requirements that were awarded in a manner inconsistent with the established terms of the solicitation and applicable procurement law and regulation. While the Air Force no longer proposes to reimburse those costs, it has not identified a reason why it cannot, or believes that it no longer should, reimburse them. We therefore recommend that Congress enact a private bill directing the Air Force to also reimburse the protester its reasonable proposal preparation costs.

In addition to the appendix, enclosed for your review are copies of our public decision in the protest and the Department of the Air Force's letter of February 10, 2025. If you, or your staff, have any questions about this letter, please contact me at emmanuelipereze@gao.gov or (202) 512-2853 or either of the following

that we must dismiss an untimely agency request for reconsideration and cannot consider whether the request presents a significant issue because our regulations include no significant issue exception to our request for reconsideration timeliness rules).

Managing Associate General Counsels: Kenneth Patton at pattonk@gao.gov or (202) 512-8205 or Edward Goldstein at goldsteine@gao.gov or (202) 512-4483.

Sincerely,

A handwritten signature in black ink, reading "Edda Emmanuelli Perez". The signature is written in a cursive, flowing style.

Edda Emmanuelli Perez
General Counsel

Enclosures

1. Appendix
2. *ATP Gov, LLC*, B-422938, B-422938.2, Dec. 12, 2024, 2024 CPD ¶ 306
3. *Department of the Air Force--Req. to Modify Remedy*, B-422938.3, Feb. 5, 2025, 2025 CPD ¶ 46
4. Letter from Department of the Air Force to GAO, Feb. 10, 2025

APPENDIX

This discussion responds to the Department of the Air Force's decision not to fully implement the recommendations our Office made in sustaining a protest filed by ATP Gov, LLC, challenging the agency's decision to issue a delivery order to iGov Technologies, Inc. In this procurement, the agency sought to purchase portable satellite terminals and related equipment. The protest issues concerned the solicitation's requirement that the terminal assemblies the agency sought to purchase must be Wideband Global Satellite (WGS) certified by the Army Forces Strategic Command.

Specifically, the solicitation issued by the Air Force included numerous mandatory requirements, as well as other requirements that were optional but desirable. There were two relevant mandatory requirements. First, terminals had to provide auto-tracking/auto-acquire functionality. Second, the terminal assembly had to be certified *via* the Army Forces Strategic Command for operation allowing transmission over WGS when integrated with WGS-certified equipment. Significantly, during the question-and-answer period, one prospective offeror asked the agency whether the terminals needed to be WGS certified at the time of proposal submission, and the agency responded "Yes."

The agency received four proposals, including proposals from ATP and iGov. ATP proposed a terminal assembly that had auto-tracking capability and was fully WGS-certified at the time of proposal submission at a total evaluated price of \$300,219,569. By contrast, iGov proposed a base terminal that was WGS-certified at the time of the proposal submission, but that would need to be modified to provide the required auto-tracking capability (and so would require re-certification), at a total evaluated price of \$180,182,031.

To be clear, there is no dispute that iGov's proposed terminal assembly was not fully certified at the time of proposal submission or award, and, in this regard, the agency represents that as of the date of its letter, iGov is making progress with, but has not yet completed, the re-certification process for its terminal assembly. Letter at 2. Moreover, the agency, in its request for modification of our recommended remedy, represented that the agency did not contend that our decision sustaining ATP's protest contained errors of either fact or law. *Department of the Air Force--Req. to Modify Remedy*, B-422938.3, Feb. 5, 2025, 2025 CPD ¶ 46 at 4. Further, the agency has indicated it intends to implement the second portion of our recommendation by reimbursing the protester's costs of filing and pursuing its protest. Letter at 2.

In short, the principal area of disagreement concerns the feasibility and desirability of implementing our recommendation to reevaluate proposals or amend the solicitation. The Air Force contends that ATP, the protester, was the only offeror that proposed a terminal assembly that was WGS-certified at the time of proposal submission, and so a reevaluation of proposals would likely result in an award to ATP. *Department of the Air Force--Req. to Modify Remedy*, *supra* at 3-4. However, the agency argues that ATP's terminal assembly was both more expensive than iGov's terminal, and met fewer of the agency's desired, but optional, requirements. *Id.* Moreover, because iGov has been performing under the issued delivery order for several months, if the agency elected to

make an award to another company, the agency would have to terminate iGov's contract for the convenience of the government which would subject the agency to significant termination for convenience costs. Letter at 1-2. As a result, the Air Force contends that implementing this portion of our recommendation would result in either the procurement of a less capable product at a higher price, or would result in lengthy and unacceptable delays, depending on whether the agency elected to reevaluate or amend the solicitation. *Id.* In either case, the agency contends that the national security impacts would be unacceptable. *Id.*

In general, when developing our recommendations we consider all the circumstances surrounding the procurement, including the seriousness of the procurement deficiency, the degree of prejudice to other parties or to the integrity of the competitive procurement system, the good faith of the parties, the extent of performance, the cost to the government, the urgency of the procurement, and the impact of the recommendation on the contracting agency's mission.² 4 C.F.R. § 21.8(b).

The agency however, raised none of the concerns it now raises during the pendency of the protest, and failed to file a timely request for reconsideration explaining its concerns with our recommended remedy. These issues were raised for the first time in the agency's untimely request for modification of our recommended remedy that was filed more than a month after our decision was issued. As explained in the attached decision resolving the agency's request, our Regulations do not permit us to consider untimely requests for reconsideration of our decisions. *Department of the Air Force--Req. to Modify Remedy, supra* at 5. More significantly, the issue of the timeliness of the agency's request is not merely an abstract legal question: by delaying more than a month before requesting that we modify the remedy and permitting continued contract performance in that interval, the agency exacerbated the potential termination for convenience costs and reprocurement delays that the agency now raises as reasons that it is declining to fully implement our recommendation. *Id.*

Moreover, to the extent the agency now contends that it does not intend to make an award to the protester because ATP's proposed terminal assembly is less capable and significantly higher priced than iGov's terminal assembly, we note the agency's concern is a direct result of the procurement error we identified in our decision. Specifically, during the protest, ATP explained that the solicitation's requirement for terminal assemblies to be WGS-certified at the time of proposal constrained ATP's proposed solution. *ATP Gov, LLC*, B-422938, B-422938.2, Dec. 12, 2024, 2024 CPD ¶ 306 at 7. ATP specifically identified a different and more capable terminal that it would have proposed had it known that it could pursue WGS certification post-award. *Id.* That is,

² For example, in some cases where contracts have already been substantially performed before we issue our decision, we have concluded that it is impractical to recommend relief beyond recommending that an agency reimburse a protester's bid or proposal costs in addition to its protest costs. See *In re DOI, Presentations South, Inc. - Request for Reconsideration*, B-229842.3, Aug. 15, 1988, 88-2 CPD ¶ 148. The agency suggested payment of bid and proposal costs as an alternative remedy in its untimely request to modify our recommended remedy, but the agency does not currently propose to reimburse the protester's bid or proposal costs.

the agency could have received more--and more effective--competition if it had solicited for its actual needs, rather than soliciting based on different requirements than those it ultimately accepted at award. For these reasons, we continue to believe that our recommendation is appropriate.

When reporting a case in which an agency fails to fully implement a recommendation by our Office, 31 U.S.C. § 3554(e)(1)(B) also contemplates that our Office will recommend whether Congress should consider further action in order to correct an inequity or to preserve the integrity of the procurement process. That statute lists four varieties of recommendations which we may issue: (i) private relief legislation; (ii) legislative rescission or cancellation of funds; (iii) further investigation by Congress; or (iv) other action. Generally, we have only made such recommendations when the agency's decision not to follow our recommendation suggested a systemic flaw with the agency's processes or brought to light larger questions of interpreting applicable procurement law. While we believe the protester has been left with no effective relief due to the agency's decision, we do not believe the issues highlighted by this bid protest suggest a systemic flaw or touch on larger questions of procurement law. Accordingly, we do not include any recommendation for further Congressional action consistent with options (ii) – (iv) described above.

However, in light of the Air Force declining to reevaluate proposals in a manner consistent with the solicitation or amending the solicitation to adequately reflect the agency's actual requirements and allowing offerors to submit revised proposals consistent with those amended requirements, we recommend Congress enact a private bill directing the Air Force to reimburse the protester for its reasonable proposal preparation costs. As addressed above, our Bid Protest Regulations, implementing the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3557, allow for the recovery of proposal preparation costs where a protester has been unreasonably excluded from a competition or where the agency's evaluation or award decision are inconsistent with applicable procurement law or regulation where other remedies enumerated in our regulations are not appropriate.

Typically, our Office will only recommend reimbursement of proposal preparation costs where other remedies, including reevaluation or amending the solicitation, are not feasible. See, e.g., *Moyle Real Estate & Dev. Co.--Costs*, B-404761.4, Mar. 27, 2012, 2012 CPD ¶ 125 (explaining that GAO will generally only recommend proposal preparation and protest costs where a federal lease does not contain a termination for convenience provision); *Energy Compression Research Corp.*, B-243650.2, Nov. 18, 1991, 91-2 CPD ¶ 466 (sustaining protest and recommending only recovery of proposal preparation and protest costs where performance of the protested contract was approximately one-half complete).

As discussed above, the Air Force proposed in its untimely request for modification of our recommendation that a reasonable alternative remedy would be to reimburse the protester for its reasonable proposal preparation costs, but the agency no longer proposes to reimburse those costs. However, the Air Force has not identified any obstacle to it voluntarily electing to reimburse the protester for its proposal preparation costs or a reason why it now believes reimbursement of those costs would be inappropriate. Although this remedy would not allow the protester a fair opportunity to

compete for the government's requirements, it would at least equitably reimburse the protester for the costs incurred in competing for the agency's requirements that were awarded in a manner inconsistent with the established terms of the solicitation and applicable procurement law and regulation.³

³ Additionally, we note that the protester is precluded from seeking further judicial relief at the U.S. Court of Federal Claims because this protest related to the issuance of a delivery order. See 10 U.S.C. § 3406(f).