

Overview

Chess Consulting (“Chess”) regularly assists companies and their legal counsel with complex litigation and investigations, including bid protests. Companies that bid on government contracts face the possibility of a protest. The substantial investment and increasingly competitive nature of government procurements have contributed to an increase in protests of contract award decisions. According to the Government Accountability Office (“GAO”), the number of bid protests has steadily increased from 1,270 in fiscal year 2006 to 2,789 in fiscal year 2016 – an increase of almost 120%.

Given the complex nature of bid protests, as well as the necessity to hire outside consultants due to the sensitive nature of the information involved, Chess is uniquely qualified with its professionals having vast industry expertise, and experience working on high-profile investigations, litigation, and regulatory matters. Additionally, the GAO’s statutory deadline of 100 days from the filing of a protest to decision has made it imperative that consultants be able to quickly analyze and communicate their findings to outside counsel. Our highly-credentialed team is able to quickly and efficiently analyze large amounts of data and summarize it concisely in way to allow outside counsel to easily understand the information and determine the proper course of action.

It is imperative that a consultant understand each company’s unique business risks and challenges in order to assist outside counsel in identifying the appropriate protest grounds. Given this requirement in bid protests, our professionals are able to provide a combination of government contracting regulatory expertise, technical financial accounting and reporting knowledge, and forensic accounting and investigative skills.

Grounds for Bid Protests

Grounds for filing bid protests frequently relate to the applicable federal procurement regulations, such as the Federal Acquisition Regulation (“FAR”) and the Defense Procurement Acquisition Policy (“DPAP”) which our professionals are highly versed in through years of government contract experience. Chess has assisted in identifying some of the following common grounds for sustaining bid protests: 1) the contracting agency’s flaws in

maintaining adequate documentation, 2) evaluating cost/pricing proposals, and 3) adhering to established evaluation criteria.

The Chess Consulting Advantage

Chess’s highly experienced team of government contract accounting and regulatory compliance experts have worked with contractors on a multitude of matters over many years. Our clients have included contractors spanning a wide variety of industries, including: aerospace and defense, healthcare, construction, technical services, and higher education. Chess’s professionals are frequently engaged by clients and/or their legal counsel to provide bid protest support in a variety of capacities including, but not limited to:

- Reviewing agency documents to ensure that the proposals were properly evaluated in accordance with the solicitation requirements;
- Reviewing each offeror’s proposal by cost element to ensure the agency properly analyzed these costs;
- Analyzing the overall reasonableness of each offeror’s cost proposals in relation to the objectives set forth in the agency’s request for proposal;
- Analyzing subcontractor costs to ensure they were properly included in each offeror’s cost proposal;
- Analyzing each offeror’s cost assumptions to ensure they are properly reflected in the cost proposal;
- Reviewing each offeror’s cost and technical proposals to ensure that the methodology used in the technical proposal is properly reflected within, and reconciles to, the cost proposal;
- Evaluating adequacy of the agency’s realism review; and
- Performing a financial capability review using bankruptcy prediction models and financial ratios to determine if an offeror was at risk of bankruptcy.

Our professionals have assisted clients with numerous protests over the past decade. We have prepared declarations and exhibits, as well as assisted outside counsel with developing strategies and crafting briefs to the GAO and the Court of Federal Claims. Additionally, when a hearing before the GAO is required, we have acted as an expert witness in front of the GAO, as well as assisted outside counsel in preparation of cross examination of government witnesses.