

# Protests Rise; Winners Fall: GAO Releases Its Latest Protest Statistics

*December 9, 2011 by [Anne Perry](#)*

While the number of protests has steadily increased over the past five years, the success rate for protesters in Fiscal Year 2011 was at its lowest during that time. GAO reported to Congress its Bid Protest Statistics for Fiscal Year 2011 on November 15, 2011 and it reflects a bit of a tougher year for protesters but no real significant changes from last year.

There were 2,353 protests filed in 2011, including 144 cost claims and requests for reconsideration, but GAO sustained only 67 protests, a mere 16 percent. This compares to 2,226 filed cases and a 19 percent sustain rate in 2010. Moreover, it is a huge departure from the 27 percent sustain rate in 2007. GAO reported that the "effectiveness rate," which GAO defines as instances where a protester obtains "some form of relief from the agency, as reported to GAO," remained constant from last year at 42 percent. On the bright side, however, while fewer protesters were successful, all federal agencies reported that they fully implemented the GAO recommendations in those sustained protests.

GAO closed 2,292 cases but issued only 417 "merit (sustain + deny)" decisions, about 10 percent less than last year, despite the 2 percent increase in the total number of filed protests. The rest of the closed cases were disposed of, for example, through dismissals for procedural errors, withdrawals by protesters, or Alternative Dispute Resolutions ("ADR"). Down 2 percent from 2010 was the

number of hearings held; 46 cases versus 61 in 2010; thus they were held in just 8 percent of the cases filed versus 10 percent in 2010. ADR was also down, having been used in only 140 cases, down from 159 in 2010. The ADR success rate, however, was up 2 percent to 82 percent. So fewer instances of ADR, but GAO was more successful in obtaining resolution.

Years ago, those arguing against GAO jurisdiction over task order protests prophesied paralyzing numbers of protests would materialize. The numbers, however, do not bear that out – GAO received only 147 such protests in 2011. This is hardly a significant number given the multitude of very large multiple award IDIQ contracts and enormous task orders awarded thereunder.

Overall, no huge surprises emerge from GAO's statistics, although the trends are, in some respects, headed in the wrong direction for protesters. Then again, maybe the agencies are getting better at buying? The complete GAO report to Congress can be found [here](#).

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