



Comptroller General
of the United States

Washington, D.C. 20548

B-158766

January 31, 1987



The Honorable George Bush
President of the Senate

Dear Mr. President:

Under the Competition in Contracting Act of 1984 (CICA)^{1/}, the Comptroller General is required to report to Congress each instance in which a federal agency did not fully implement a recommendation made by our Office in connection with a bid protest decided during the prior fiscal year. As we did last year, we are submitting the required report, along with a summary of our recent activities under our CICA bid protest function. The latter consists of two parts: a synopsis of progress made in defending the constitutionality of CICA in the courts and a statistical overview of our processing of FY 1986 bid protest cases.

Statutory Report

For FY 1986, we have only one instance to report where an agency did not comply with our recommendation. The case in question concerned a protest filed by the Howard Management Group (HMG)^{2/}. HMG objected to the Naval Facilities Engineering Command's (NAVFAC) award of a contract for construction of a water main for the Trident Submarine Base at Kings Bay, Georgia. The protester contended that NAVFAC refused to consider a modification to HMG's bid which would have made it the low bidder. We found that NAVFAC had improperly failed to consider HMG's bid modification, which was transmitted prior to bid opening but was received late because a telex number NAVFAC furnished to HMG for transmission of its bid was erroneous^{3/}. Because the record indicated that the

^{1/} 31 U.S.C. § 3554(e)(2)(Supp. III 1985).

^{2/} Decided in Howard Management Group, B-221889, July 3, 1986, 86-2 CPD ¶ 28.

^{3/} In fact, the NAVFAC facility had no telex equipment at all. The number furnished to HMG was an ordinary telephone number to which facsimile equipment was connected. That number and its equipment is not accessible by Western Union telex.

protest had been filed within 10 days following award and because we had been advised by NAVFAC that performance had been stayed, we recommended that NAVFAC consider HMG's bid as modified and, if HMG were then found to be the low responsive, responsible bidder, to terminate the contract and make award to that firm.

By letter of October 23, 1986, NAVFAC rejected our recommendation, citing substantial progress on the project and a critical project completion date as justifying such action^{4/}. According to NAVFAC, construction was 70 percent complete, all materials had been ordered, and 90 percent of the required materials were either installed or stored on site.

One of the key elements of the CICA bid protest system is the requirement that agencies generally suspend protested procurement actions until we issue our decision. Because the facts as related by NAVFAC suggested that it had not stopped work, but instead had proceeded with contract performance in possible violation of the suspension provisions of CICA^{5/}, we investigated to determine:

- o whether the Navy had ever prepared determinations and findings (D&F) authorizing continued performance in the face of the protest and
- o who, if anyone, had authorized continued contract performance.

The investigation disclosed that the only D&F executed by NAVFAC was signed by Rear Admiral F.G. Kelley and is dated June 11, 1986, more than 3 months after NAVFAC was notified of HMG's protest. The D&F concluded that continued performance was in the best interest of the government based in part on the fact that performance had not been suspended at the time NAVFAC was first advised of the protest. The D&F

^{4/} We note that NAVFAC's letter was received well after the 60 day period allowed for such a response by 31 U.S.C. § 3554(e)(1) and only after persistent requests by our Office for information regarding NAVFAC's action in response to our recommendation.

^{5/} 31 U.S.C. § 3553(d)(1), which requires that a contracting activity upon receiving notice of a protest must suspend performance pending resolution of the protest unless the head of the procuring activity authorizes continued performance under 31 U.S.C. § 3553(d)(2).

further recites that the contracting officer did not then suspend the contract because he decided that the protest was clearly without merit.

As indicated, we subsequently found that the protest was meritorious. Had NAVFAC followed our recommendation and had it found that HMG was the low responsive, responsible bidder, the government could have saved \$369,361. Moreover, it appears NAVFAC failed to comply with the suspension of performance provisions of CICA at the time it was notified of the protest. Furthermore, NAVFAC failed to comply with the CICA requirement that our Office be notified of agency decisions, in this case the D&F Admiral Kelley belatedly signed, to authorize continued contract performance^{6/}.

In view of our findings, we have written the Secretary of the Navy recommending that he take appropriate action to assure full compliance with CICA by NAVFAC personnel in processing future protests.

CICA Constitutionality

On December 31, 1986, the United States Court of Appeals for the Third Circuit again upheld the constitutionality of CICA in the case of Ameron, Inc., et al. v. United States Army Corps of Engineers^{7/}. The Justice Department had challenged the requirement that agencies suspend protested procurement actions until the Comptroller General issues his decision. The Justice Department claimed that the separation of powers doctrine prohibits the Comptroller General, an officer of the legislative branch, from performing any duty relating to the suspension provisions, even by allowing agencies to proceed with procurements through the mere act of issuing a decision.

The Court of Appeals held that although the duties performed by the Comptroller General can be characterized as executive, his actions further congressional authority to investigate potential government misconduct in executing procurement laws and to seek to correct that misconduct by publicizing its views. The potential for disruption of

^{6/} 31 U.S.C. § 3553(d)(2)(B).

^{7/} Nos. 85-5226 and 85-5377. This decision was on rehearing ordered by the Court after the Supreme Court's decision in Bowsher v. Synar, 106 S. Ct. 3181 (1986), holding that the Comptroller General of the United States as an officer of a legislative branch agency could not constitutionally perform duties assigned to him by the Gramm-Rudman-Hollings Act.

executive branch activities is limited, the court found, and that potential is outweighed by the important congressional interests furthered by CICA. The court stated that it was convinced that CICA effectuates, rather than disrupts, the proper balance of power between the executive and legislative branches.

Also, on December 31, the United States District Court in Los Angeles held that the suspension provisions of CICA are constitutional. In Lear Siegler v. Lehman^{8/}, the court denied the executive branch's motion to reconsider an earlier decision that CICA does not violate the separation of powers doctrine. The constitutionality of CICA remains an issue in a third case, Parola v. Weinberger^{9/}, where, too, the executive branch requested that the court reconsider an earlier decision that CICA is constitutional. That court postponed deciding the request so that it could consider the Court of Appeals views in Ameron before proceeding.

**Summary of GAO FY 1986
Bid Protest Activity**

FY 1986 represents the first full fiscal year of operation of our bid protest function under CICA^{10/}. As shown by the enclosures, 2891 CICA cases were filed with our Office during FY 1986; 2884 cases were closed. Of the cases closed, 2520 were initial protests; 364 were cases requesting reconsideration of prior decisions.

CICA charges our Office with the responsibility, to the maximum extent practicable, to provide an inexpensive and expeditious forum for resolving bid protests^{11/}. In this regard, we can again report that no protest was decided in more than the 90 working days allowed by CICA (or the 45 calendar days permitted in express option cases). In fact, cases closed during FY 1986 were closed in an average of 31.3 working days; protests closed after full development

^{8/} No. CV 85-1125-Kn (C.D. Cal.)

^{9/} No. C-85-20303-WAI (N.D. Cal.)

^{10/} CICA became effective on January 15, 1985; as a result, our FY 1985 report covered 8-1/2 months of CICA activity, during which time we also continued to dispose of cases filed prior to CICA.

^{11/} 31 U.S.C. § 3554(a)(1).

were closed in an average of 65.9 working days^{12/}. We were able to continue to dispose of cases in much less than the 124 working days typically required before CICA became effective.

The overall protester effectiveness rate--a calculation of the probability that a protester obtains meaningful relief--rose significantly, from 18.5 percent for FY 1985 to 24.3 percent in FY 1986. This calculation of protester effectiveness takes into account cases which were withdrawn (which increased in frequency by 29 percent in FY 1986) or dismissed as academic after the contracting agency voluntarily took corrective action in response to the protest, as well as protests that were sustained. Five hundred thirty six protests were withdrawn during FY 1986. Eighty-three percent of those withdrawn for known cause were withdrawn in response to favorable agency action, as were a majority of the 104 cases dismissed as academic. The rate at which protests which were decided on the merits were sustained decreased somewhat, to 13.8 percent. We attribute this to an increase in the percentage of cases considered on their merits, and to greater willingness by contracting activities to voluntarily correct problems leading to protests.

As we did in last year's report, we have included in the enclosures a statistical analysis of issues raised in protests considered by our Office (enclosure B). Issues relating to the selection of an awardee continue to predominate, while issues such as alleged improper use of noncompetitive procurement techniques appear relatively infrequently.

Our reporting of data on agency performance in withholding award or suspending performance pending protest resolution has been expanded (enclosure C) to include information regarding the number of instances where agencies invoked the statutory procedure to permit continued performance in the face of protest. There were 50 such instances during FY 1986; 9 of these occurred in cases where the protest was eventually sustained. We note that civilian agencies (which were involved in less than 30 percent of the protests considered) invoked the exceptions in a higher percentage of

^{12/} Our ability to continue to meet the statutory timeframes is attributable, in part, to continued agency compliance with CICA reporting requirements, which require agencies to submit reports within 25 working days (or 10 working days when a case is handled under the express option procedure), unless an extension of time is allowed. Extensions were allowed only sparingly; reports were received in an average 23.2 working days.

them than did defense agencies (which were involved in more than 70 percent of all protests).

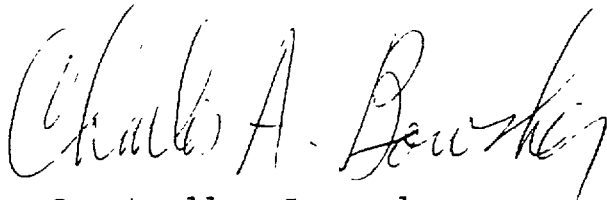
Enclosure E includes a breakdown of protest performance by agency. This year we have been able to provide more detailed information by breaking down performance to reporting levels within agencies. Generally the data show that most protests involved contracting activities of the Department of Defense, and that such protests were more likely to be resolved without the need for a decision than were protests lodged against civilian agencies.

Planned Actions

As indicated in our FY 1985 report, we undertook last year a review of our regulations and practices under CICA. While we deferred releasing proposed changes to allow time to consider the Court of Appeals decision in Ameron, and to take into consideration the informal views of members of the procurement community, we expect to release proposed regulations in the near future.

We are furnishing a copy of this report and the enclosures to the Senate Committee on Governmental Affairs and its Subcommittee on Oversight of Government Management, and forwarding an identical report to the Speaker of the House of Representatives with a copy to the House Committee on Government Operations.

Sincerely yours,



Comptroller General
of the United States

Enclosures

Enclosures
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Enclosure A
GAO FY 1986 Bid Protest Activity
Statistical Overview

SUMMARY — Overall Activity

The level of GAO bid protest activity during FY 1986 was as follows:

Cases received during FY 1986 --

Initial protests received.....2552
 Reconsideration requests received.....339
 Total cases received.....2891

Cases closed during FY 1986 --

Initial protests closed.....2520
 Reconsideration requests closed.....364
 Total cases closed.....2884

DISPOSITION DATA — Initial Protests

Initial protests are closed by withdrawal, often resulting from action correcting the problem protested; by decision on the merits, which may sustain the protest; or by dismissal, again sometimes the result of governmental action which may make the protest of only academic interest. Tables A.1 through A.3 summarize how the 2520 initial protests closed during FY 1986 were processed; table A.4 reports various data relating to protester effectiveness.

Table A.1: Protests Withdrawn

Disposition	Cases
Due to corrective action taken	273
For other known reasons	55
For unknown reasons	208
Total closed by withdrawal	536

Table A.2: Protests Decided on their Merits

Disposition	Cases
Denied	630
Sustained	101
Total decided on merits	731

**Enclosure A
Statistical Overview**

Table A.3: Cases Not Included in Table A.1 or Table A.2

Disposition	Cases
Due to corrective action taken	65
Without known corrective action	1188
Total closed	1253

Table A.4: Protester Effectiveness

Type of Measure	Percent
Corrective action rate (cases dismissed following withdrawal) ^a	83.2%
Corrective action rate (cases dismissed as academic) ^b	62.5%
Sustain rate ^c	13.8%
Overall protester effectiveness rate^d	24.3%

^a Calculated as a percentage of withdrawals of known cause.

^b Calculated as a percentage of cases dismissed as academic.

^c Calculated as a percentage of cases decided on their merits.

^d Calculated as a percentage of all cases closed.

**DISPOSITION DATA —
Reconsideration Requests**

Table A.5 outlines how GAO handled the 364 reconsideration requests closed during FY 1986:

Table A.5: Reconsideration Data

Disposition	Cases
Closed by formal decision -- Reversing prior decision	8 ^a
Closed by formal decision -- not reversing prior decision	305
Requests otherwise closed ^b	51

^a In five cases, protests that were initially dismissed were sustained; in one case, a protest that was initially dismissed was reinstated and denied. In two other cases, protests that were initially sustained were affirmed but the recommendations made were modified.

**Enclosure A
Statistical Overview**

^b Consists of cases that were withdrawn or otherwise dismissed by non-decision letter or by a computer generated notice decision.

PROCESSING TIME

Case processing time is tracked in monitoring bid protest activity in order to minimize the disruption to government procurement due to delay while protests are decided. In cases where an agency proceeds with award, or with performance where award was made prior to protest, delay in resolving the protest may make remedial corrective action difficult to implement if the protest is sustained. Processing time is measured in four categories, as set out in table A.6.

Table A.6: Case Processing Time

Contracting Agency Time	Disposition Time:		
	Protests Except Recon.	Developed Protests	All Cases
23.2	31.7	65.9	31.3

Legend:

Contracting agency time = Average time (in working days) required by agencies to file reports with GAO.

Disposition Time: Protests Except Recon. = Average time (in working days) from filing to closing to dispose of protests excluding reconsiderations.

Disposition Time: Developed Protests = Average time (in working days) from filing to decision for initial protests decided on their merits.

Disposition Time: All Cases = Average time (in working days) from filing to decision for all cases, initial protests and requests for reconsideration.

PROCUREMENT TYPE AND ISSUE AREA DATA**PROCUREMENT TYPE**

The government used several types of procurement techniques to fill its needs. CICA recognizes three major categories of procurements: those conducted by soliciting sealed bids (advertising), those conducted by soliciting competitive proposals (negotiation), and those conducted by using other than competitive procedures. The breakdown between sealed bid and other techniques is reported in Table B.1.

Table B.1: Procurement Type Data

	Sealed Bid	Other
Percent of initial protests closed --	49.5%	50.5%

ISSUE AREAS

Table B.2 presents issue areas based on protesters' initial statements of their protests for cases closed during FY 1986. As the data indicate, a majority of cases present challenges to agencies' decisions to reject the protester's proposal or to make award to a competing firm. A minority of cases involve complaints regarding the content of the solicitation and only a small portion of the protests complain of the use of an improper sole-source procurement.

Table B.2: Issue Area Data

Issue Area	Percent
Procurement was improperly sole-sourced	2.6%
Solicitation was defective	17.7%
Protester's offer was improperly rejected	26.3%
Awardee's offer was improperly accepted	16.4%
Selection methodology was otherwise improper	5.8%
Protester says it was unjustifiably found to be nonresponsible	4.3%
Protester says the awardee was not responsible	2.9%
Protester raises other issues (or states no issue)	24.0%

SUSPENSION OF AWARD/PERFORMANCE DATA**BACKGROUND**

CICA includes several provisions designed to enhance the likelihood that protests can be decided before contract performance reaches a stage at which corrective action is effectively precluded. In cases where a protest is filed before an award has been made, 31 U.S.C. § 3553(c) precludes award unless the head of the procuring activity finds that urgent and compelling circumstances which significantly affect interests of the United States preclude waiting for completion of the protest process. Similarly, 31 U.S.C. § 3553(d) provides that, in cases where award has been made, but an agency is notified of a protest within 10 days of the date of award, performance must be suspended unless the head of the procuring activity finds that urgent and compelling circumstances (similar to those required to justify award in the face of a protest) exist or that performance is in the best interest of the government. Where continued performance is based on a finding of best interest, GAO is required to disregard cost or disruption resulting from contract termination in recommending corrective action should the protest be sustained.

FILING STATUS

GAO regularly collects data concerning the award status of protests. This data is presented in tables C.1.

Table C.1: Distribution of Cases by Filing Status

Filing Status	Defense Agencies	Civilian Agencies	Combined Agencies*
Protests received and closed before award:	36.0%	12.9%	48.9%
Protests received and closed after award:	31.5%	16.6%	48.1%
Protests received before but closed after award:	2.1%	0.8%	2.9%

* Due to rounding, percentages in this column do not add to exactly 100 percent.

AWARD SUSPENSION DATA

Data regarding the relatively frequency of award in the face of protest is depicted in table C.2. Each entry expresses as a percentage the ratio of the number of initial protests received before but closed after award to the total number of preaward protests received from a class of agencies. Put otherwise, the data are a measure of the likelihood of award in the face of protest during FY 1986.

Enclosure C
Suspension Data

Table C.2: Award Rate in
Face of Protest:

	Defense Agencies	Civilian Agencies	Combined Agencies
Award Rate	5.5%	5.9%	5.6%

PERFORMANCE SUSPENSION
DATA

Tables C.3 and C.4 present available data regarding agencies' suspension of performance where the protest is filed after award.

Table C.3 presents the number of cases in which agencies invoked the statutory procedure to permit continued performance in the face of protest. Compared to the number of post-award initial protests handled by GAO during FY 1986, these numbers would be in line with the rates experienced with regard to awards made in the face of protest (from table C.2).¹

Table C.3: Continued
Performance in Face of
Protest:

Protests Rec'd after Award	Defense Agencies	Civilian Agencies	Combined Agencies
Where agency determined that urgency justified continued performance	16	14	30
Where agency found that continued performance was in the Government's best interest	7	13	20

Of particular interest in monitoring the effectiveness of the CICA performance suspension provisions are the number of sustained protests where performance was not suspended. Such occurrences are significant because, in cases where continued performance is justified by urgency, effective remedial relief may be precluded. Also, where the agency proceeded on a best interest basis, GAO is required to disregard the effect of continued performance in recommending remedial action.

¹ However, the numbers only reflect those cases where the CICA suspension provisions were applicable. CICA requires suspension when the agency is informed of the protest within 10 days of award.

**Enclosure C
Suspension Data**

**Table C.4: Continued
Performance in Face of
Protest (Sustain Data):**

Protests Rec'd after Award	Defense Agencies	Civilian Agencies	Combined Agencies
Where agency determined that urgency justified continued performance	3	2	5
Where agency found that continued performance was in the Government's best interest	1	3	4

Enclosure D
BASES FOR DISMISSAL

SUMMARY

A significant number of protests raise issues that are clearly without merit on their face, that concern matters that are not appropriate for handling by GAO under its bid protest function, or that are not timely raised or otherwise do not conform to the bid protest filing requirements set out in GAO's published regulations. Such issues are dismissed: (1) by decision after full development in cases where the facts are not apparent until a complete record is made or where other issues raised are suitable for decision on their merits, (2) by summary decision, where full development is not required but an explanation tailored to the specific facts of a case is required to explain the decision, and (3) by notice decision. Notice decisions are machine generated standardized form notices that have been developed for use in a variety of standard situations. As broken out in table D.1, GAO used these techniques to dismiss some or all of the issues raised in 1296 initial protests closed during FY 1986.

Table D.1: Dismissal Data

Type	FDPD	FDFD	SD	ND
	161	108	325	702 ^a

Legend:

FDPD = The case was closed by decision after full development, resulting in dismissal of a portion of the issues raised; the remaining issues were decided on their merits.

FDFD = The case was dismissed by decision based on a fully developed record.

SD = Summary Decision

ND = Notice Decision

^a Excludes notice dismissals used where the protester withdrew the protest or where GAO concluded, based on corrective action taken voluntarily by a contracting activity, that the issues protested had become academic.

**BASES FOR DISMISSAL
AFTER FULL DEVELOPMENT**

The 269 cases identified in table D.1 as dismissed in whole or in part after full development can be further classified on the basis of the cause for their dismissal. For such cases, GAO routinely tracks 7 commonly encountered grounds for dismissal, as broken out in table D.2.

Enclosure D
Bases for Dismissal

Table D.2: Bases for
Dismissal after Full
Development

Bases	Percent
Responsibility ^a	7.67%
Litigation ^b	1.67%
Jurisdictional defect ^c	11.00%
SBA issues ^d	4.33%
Subcontractor ^e	0.67%
Untimely ^f	45.33%
Misc. (other)	29.33%

^a Issue concerns a firm's (other than the protester's) capability to perform if awarded a contract. GAO will consider questions relating to whether a firm has obligated itself to perform, but does not normally consider allegations that an agency should disqualify an offeror because of concern that it may not meet its obligations.

^b GAO will not consider a protest where the matter is pending before a court of competent jurisdiction, unless the court expresses an interest in GAO's decision.

^c Concerns issues falling outside GAO's bid protest jurisdiction as defined by CICA, 31 U.S.C. § 3551, et seq.

^d GAO does not consider issues which by law fall within the exclusive jurisdiction of the Small Business Administration.

^e Protests filed by potential subcontractors are normally not for consideration by GAO under CICA.

^f Concerns issues that have not been protested within the time limits set by GAO's Bid Protest Regulations.

Enclosure D
Bases for Dismissal

BASES FOR SUMMARY DECISIONS

Similarly, a breakdown of the causes for dismissal of the 325 cases closed by a summary decision is given in table D.3.

Table D.3: Bases for Dismissal by Summary Decision

Bases	Percent
Academic ^a	4.5%
Responsibility	10.4%
Litigation	2.1%
Jurisdictional defect	16.2%
SBA issues	7.1%
Subcontractor	1.0%
Untimely	25.3%
Misc. (other)	33.4%

^a Protest raises an issue that is of only theoretical interest, not an issue of practical importance to the procurement protested.

BASES FOR NOTICE DISMISSALS

A similar but more comprehensive breakdown is possible for the 702 cases dismissed using notice decisions. Such data is provided in table D.4.

Table D.4: Bases for Dismissal by Notice Decision

Bases	Percent
Abandoned cases	27.9%
No basis of protest was stated	10.1%
Protest was not filed within 10 working days after basis was known	9.3%
Protest concerning solicitation was filed after opening date	8.9%
Protester challenged affirmative determination of responsibility	8.7%
Protest raised issues that SBA decides	6.4%
Protester failed to furnish copy of protest to contracting agency	6.3%
Agency level protest was not timely protested to GAO	6.3%
Issue protested was matter of contract administration.	5.7%
Protester was not an interested party as defined by CICA	3.3%
Protest concerned wage rate matters for review by Department of Labor	1.4%
Protest raised issues that were outside GAO's CICA jurisdiction	2.4%
Protest was otherwise not for GAO's consideration	3.3%

Enclosure E
CONTRACTING AGENCY DATA

SUMMARY

As expected based on past experience, a large majority (70.1 percent) of protested procurement actions involved contracting activities within the Department of Defense. These protests, which are summarized in table E.1, were more likely to be resolved without the need for a decision than were protests lodged against civilian procuring activities. This difference is reflected in a higher sustain rate for protests concerning civilian agencies and in the data indicating that protests of DOD procurements typically took less time to resolve than did protests of civilian agency procurement actions.

Table E.1: Summary of Agency Data

	Rpt Days	Total Cases	Av. Days	Merit Dec.	Merit Days	WD	AC	Prot. Sus.	% Sus.	Eff. Rate
Civilian Agencies:	23.4	748	34.6	244	68.1	138	14	44	18.0%	19.2%
Defense Agencies:	23.1	1763	30.6	487	64.9	398	90	57	11.7%	26.6%
All Agencies: ^a	23.2	2520	31.7	731	65.9	536	104	101	13.8%	24.3%

Legend:

Rpt Days = Average days taken to file reports responding to protests.

Total Cases = Total cases decided during the year.

Av. Days = Average days to close all cases.

Merit Dec. = Number of initial protests decided on their merits. Cases which were dismissed are excluded.

Merit Days = The average number of days taken in closing cases decided on their merits.

WD = The number of cases which were closed voluntarily (dismissed) as a result of protesters' election to withdraw them.

AC = The number of cases which were dismissed as academic, usually because the contracting activity voluntarily took corrective action.

Prot. Sus. = The number of protests sustained by GAO.

% Sus. = The percentage of cases decided on their merits that GAO sustained.

Eff. Rate = A measure of protester effectiveness reflecting the probability that any protest filed resulted in voluntary corrective action by the contracting activity or in a GAO decision sustaining the protest.

^a Includes 9 cases, all dismissed summarily, in which either the protest did not concern a federal agency or the contracting agency was not identifiable.

Enclosure E
Contracting Agency Data

Principal Agency Data

Table E.2: depicts a breakdown of the table E.1 data by principal agency. Due to the large number of military procurements, and the fact that these procurements are concentrated in a few agencies, the Army, Navy, Air Force and Defense Logistics Agency (DLA), were involved in a large portion of the protests resolved by GAO during FY 1986. Similarly, GSA was involved in the largest number of protests complaining of civilian agency procurement actions.

Table E.2: Data for Principal Agencies

Agency	Rpt Days ^a	Total Cases	Av. Days	Merit Dec.	Merit Days	WD	AC	Prot. Sus.	% Sus.	Eff. Rate
Agriculture	22.2	63	32.5	19	64.6	10	2	1	5.3%	12.7%
Air Force	22.7	358	29.3	111	63.0	80	16	10	9.0%	27.6%
Army	22.6	628	33.4	177	66.8	118	44	19	10.7%	25.1%
Commerce	22.6	21	39.1	8	72.3	8	0	1	12.5%	38.1%
Courts	25.7	6	33.0	3	65.0	0	0	1	33.3%	16.7%
DLA	24.1	227	28.4	56	64.8	49	8	9	16.1%	22.4%
Education	25.6	16	40.3	8	76.1	3	0	0	0.0%	0.0%
Energy	25.4	40	35.3	14	71.6	6	0	3	21.4%	22.5%
EPA	17.4	13	38.2	7	52.4	5	0	0	0.0%	38.5%
Fed. owned corp.	25.0	4	55.0	2	81.5	2	0	1	50.0%	75.0%
GPO	17.3	20	19.3	3	55.0	13	0	0	0.0%	65.0%
GSA	24.2	138	30.0	36	65.7	19	6	6	16.7%	17.0%
HHS	22.9	47	39.9	19	65.6	8	2	1	5.3%	5.5%
HUD	26.0	12	35.5	4	78.0	1	1	2	50.0%	16.7%
Interior	22.6	74	27.7	21	67.1	24	1	3	14.3%	16.0%
Justice	20.1	24	41.4	9	68.9	4	1	3	33.3%	25.0%
Labor	22.3	14	34.4	6	66.8	1	0	2	33.3%	14.3%
Marine Corps	26.0	25	40.2	10	66.7	5	1	1	10.0%	24.0%
NASA	22.8	23	37.8	9	65.6	8	0	1	11.1%	39.1%
Navy	23.5	487	29.1	126	63.3	133	18	18	14.3%	29.6%
SBA	25.5	3	50.0	2	58.0	0	0	0	0.0%	0.0%
State	26.3	21	42.3	3	77.7	4	0	0	0.0%	19.0%
Transportation	24.0	62	37.4	20	71.3	12	0	4	20.0%	23.9%
Treasury	25.0	30	46.7	12	81.7	3	0	6	50.0%	20.0%
VA	24.4	81	32.2	25	68.1	5	1	5	20.0%	12.3%
Civil (misc. ^b)	23.0	36	39.7	14	65.5	2	0	4	28.6%	13.9%
DOD (misc. ^c)	21.7	38	25.9	7	72.0	13	3	0	0.0%	28.9%

^a Includes time to furnish supplemental as well as initial reports where applicable.

^b Includes protests concerning the following activities:
 EEOC, FEMA, Federal Energy Regulatory Commission, FTC,
 GAO, Immigration and Naturalization Service, Merit Systems

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Protection Board, National Endowment for the Humanities, NRC, NSF, NTSB, OPM, Panama Canal Commission, Peace Corps, TVA, U.S. Arms Control & Disarmament Agency, USIA, and U.S. Marshal Service.

^c Includes protests against: Armed Forces Radio & Television Service, Defense Audio-Visual Agency, Defense Communications Agency, Defense Nuclear Agency, Defense Security Assistance Agency, Defense Supply Service--Washington, Joint Cruise Missile Project Office, National Security Agency, Office of Civilian Health & Medical Program of the Uniformed Services, and Uniformed Services University of the Health Sciences.

Selected Reporting Activity Data

In tables E.3 through E.11, data is provided on a reporting activity basis tied to agencies' GAO contact points for receipt of protests and report filing purposes. (Data is provided only to the extent available. For example, the Air Force, although involved in a large number of protests, processes all protests through a central reporting point and data at a more detailed level is unavailable and thus, not reported.)

Table E.3: Department of Agriculture Data

Activity	Rpt Days	Total Cases	Av. Days	Merit Dec.	Merit Days	WD	AC	Prot. Sus.	% Sus.	Eff. Rate
Agricultural										
Research Service	0.0	1	4.0	0	0.0	0	0	0	---	0.0%
Forest Service	21.8	49	31.5	14	61.0	9	2	0	0.0%	12.3%
Soil Conservation Service	0.0	4	24.0	0	0.0	1	0	0	---	25.0%
Department of Agriculture (Generally)	23.2	9	45.1	5	74.6	0	0	1	20.0%	11.1%
Total:	22.2	63	32.5	19	64.6	10	2	1	5.3%	12.7%

(For legend see table E.1.)

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Table E.4: Department of the Army Data

Activity	Rpt Days	Total Cases	Av. Days	Merit Dec.	Merit Days	WD	AC	Prot. Sus.	% Sus.	Eff. Rate
Army Materiel Command	23.3	270	31.9	69	65.2	54	36	2	2.9%	31.0%
Corps of Engineers Civil	23.3	77	33.3	26	72.2	12	4	3	11.5%	24.7%
Military	21.7	39	31.1	14	62.0	10	0	3	21.4%	27.6%
Department of the Army (Generally)	21.8	242	35.4	68	67.4	42	4	11	16.2%	18.1%
Total:	22.6	628	33.4	177	66.8	118	44	19	10.7%	25.1%

(For legend see table E.1.)

Table E.5: Data for Federal Courts

Activity	Rpt Days	Total Cases	Av. Days	Merit Dec.	Merit Days	WD	AC	Prot. Sus.	% Sus.	Eff. Rate
Administrative Office of the Courts	26.0	5	22.2	2	54.0	0	0	0	0.0%	0.0%
Tax Court	25.0	1	87.0	1	87.0	0	0	1	100.0%	100.0%
Total:	25.7	6	33.0	3	65.0	0	0	1	33.3%	16.7%

(For legend see table E.1.)

Table E.6: Data for Federally Owned Corporations

Activity	Rpt Days	Total Cases	Av. Days	Merit Dec.	Merit Days	WD	AC	Prot. Sus.	% Sus.	Eff. Rate
Export-Import Bank	24.0	1	73.0	1	73.0	0	0	0	0.0%	0.0%
Federal Home Loan Bank Board	26.0	2	63.0	1	90.0	1	0	1	100.0%	100.0%
Federal Reserve System	0.0	1	21.0	0	0.0	1	0	0	---	100.0%
Total:	25.0	4	55.0	2	81.5	2	0	1	50.0%	75.0%

(For legend see table E.1.)

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Table E.7: General Services Administration Data

Activity	Rpt Days	Total Cases	Av. Days	Merit Dec.	Merit Days	WD	AC	Prot. Sus.	% Sus.	Eff. Rate
Federal Supply Service	24.3	68	27.8	15	65.4	9	1	3	20.0%	15.4%
Public Buildings Service	23.9	50	27.7	11	61.5	8	3	0	0.0%	16.0%
Office of Information Resources Management	24.7	9	24.9	3	53.0	2	1	1	33.3%	33.3%
Real Property Office	25.0	2	36.5	1	59.0	0	1	0	0.0%	0.0%
Stockpile Disposal Office	23.0	2	48.5	1	59.0	0	0	0	0.0%	0.0%
Other	24.3	7	66.4	5	86.3	0	0	2	40.0%	28.6%
Total:	24.2	138	30.0	36	65.7	19	6	6	16.7%	17.0%

(For legend see table E.1.)

Table E.8: Department of Justice Data

Activity	Rpt Days	Total Cases	Av. Days	Merit Dec.	Merit Days	WD	AC	Prot. Sus.	% Sus.	Eff. Rate
Bureau of Prisons	0.0	6	33.3	0	0.0	0	0	0	---	0.0%
Department of Justice (Generally)	13.0	4	24.8	2	42.5	1	0	0	0.0%	0.0%
Federal Bureau of Investigation	20.0	4	48.8	3	63.7	0	0	0	0.0%	0.0%
Federal Prison Industries	23.8	10	49.9	4	86.0	3	1	3	75.0%	60.0%
Total:	20.1	24	41.4	9	68.9	4	1	3	33.3%	25.0%

(For legend see table E.1.)

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Table E.9: Department of the Navy Data

Activity	Rpt Days	Total Cases	Av. Days	Merit Dec.	Merit Days	WD	AC	Prot. Sus.	% Sus.	Eff. Rate
Military Sealift Command	25.0	19	26.2	5	70.6	6	0	0	0.0%	15.8%
Naval Aviation Logistics Center	23.3	15	43.5	10	54.6	1	0	2	20.0%	13.3%
NAVAIR	24.3	6	23.7	3	46.7	0	0	0	0.0%	0.0%
NAVELEX	18.0	8	25.4	1	77.0	3	1	0	0.0%	18.8%
NAVFAC	23.3	131	29.0	37	59.7	18	6	6	16.2%	18.3%
NAVSEA	23.0	50	37.2	17	71.1	16	1	4	23.5%	36.8%
Navy Strategic Systems Program	20.5	3	45.7	2	55.0	0	0	0	0.0%	0.0%
NAVSUP	23.9	245	27.0	50	65.5	87	9	6	12.0%	38.1%
Navy Engineering Logistics Office	0.0	5	11.8	0	0.0	2	0	0	---	40.0%
National Naval Medical Center	0.0	1	0.0	0	0.0	0	0	0	---	0.0%
Office of Naval Research	25.0	4	46.3	1	58.0	0	1	0	0.0%	0.0%
Total:	23.5	487	29.1	126	63.3	133	18	18	14.3%	29.6%

(For legend see table E.1.)

Table E.10: Department of State Data

Activity	Rpt Days	Total Cases	Av. Days	Merit Dec.	Merit Days	WD	AC	Prot. Sus.	% Sus.	Eff. Rate
Agency for International Development	27.0	12	46.8	2	72.5	3	0	0	0.0%	25.0%
Department of State (Generally)	25.0	9	36.2	1	88.0	1	0	0	0.0%	11.1%
Total:	26.3	21	42.3	3	77.7	4	0	0	0.0%	19.0%

(For legend see table E.1.)

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Table E.11: Department of the Treasury Data

Activity	Rpt Days	Total Cases	Av. Days	Merit Dec.	Merit Days	WD	AC	Prot. Sus.	% Sus.	Eff. Rate
Internal Revenue Service	25.0	9	44.7	3	89.0	1	0	2	66.7%	22.2%
Department of the Treasury (Generally)	25.0	21	47.6	9	79.3	2	0	4	44.4%	19.0%
Total:	25.0	30	46.7	12	81.7	3	0	6	50.0%	20.0%

(For legend see table E.1.)