

Publications

November 4, 2025 • Updates

No Award, No Protest: COFC Narrows Post-Award Challenges in Strata-G Solutions

Key Takeaways

- The Court of Federal Claims confirmed that contractors cannot file a bid protest until an agency makes a final award.
- Advisory ratings or warnings, even if they strongly discourage participation, do not create ripe grounds for protest.
- Before filing, contractors should confirm that the agency's action is a true award decision, not an intermediate procurement step.

The U.S. Court of Federal Claims recently issued a decision that further emphasizes the strict timing requirements for filing post-award bid protests — namely, that a protest challenging an agency's award decision *must be filed after the agency makes its award decision*. This is true even when an offeror receives a poor initial evaluation rating and is explicitly told that an award is unlikely.

Background: CBP Discouraged Strata-G Without Issuing a Decision

In *Strata-G Solutions*, the U.S. Customs and Border Protection (CBP) issued a solicitation for an indefinite-delivery indefinite-quantity (IDIQ) contract for aircraft support services. CBP's evaluation process included two phases: the first involved an evaluation of each offeror's prior experience in aircraft support services and the second involved an evaluation of each offeror's technical approach and price.

After first phase submissions, offerors were informed that CBP would assign each a confidence rating and subsequently issue a "nonbinding" recommendation regarding whether the offeror should proceed to phase two. Although CBP's recommendation was characterized as "merely advisory" and not prohibiting offerors from participating in the second phase, the recommendation was intended to help minimize costs for offerors who had "little chance of receiving an award."

The protester, Strata-G Solutions, LLC, received only a "some-confidence" phase one rating and was advised by CBP not to participate in phase two. Before phase two submissions could be evaluated, Strata-G filed a protest, challenging, in part, that CBP's

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phase one evaluation did not follow the terms of the solicitation.

Court Found No Harm Because Award was Still Possible

The court dismissed the protest on ripeness grounds because the arguments were premised on Strata-G *not* winning the award — which had not yet occurred. Because the court viewed CBP’s recommendation as “a glimpse into a possible future . . . that ‘may or may not occur,’” Strata-G’s alleged injury was only hypothetical, as it still had a chance of award. In other words, irrespective of Strata-G’s *actual* chances of winning the award, because the agency could still have *theoretically* selected it, Strata-G could not present a ripe controversy until CBP rendered a final award decision.

Takeaway: Contractors Can’t File a Bid Protest Without Final Agency Action

This protest serves as a cautionary tale for contractors who wish to challenge an agency’s initial evaluation before an award is made. When considering whether to file a protest, clients should carefully evaluate whether the triggering government action is a genuine award or simply an intermediary procurement step.

Source: *Strata-G Sols., LLC v. United States*, No. 25-805, 2025 WL 2754748 (Fed. Cl. Sept. 16, 2025).