

## **733.103-73 Protests excluded from Agency consideration.**

(a) *Contract administration.* Disputes between a contractor and USAID are resolved pursuant to the disputes clause of the contract and the Contract Disputes Act of 1978.

(b) *Small business size standards and standard industrial classification.* Challenges of established size standards or the size status of particular firms, and challenges of the selected standard industrial classification are for review solely by the Small Business Administration.

(c) *Procurement under Section 8(a) of the Small Business Act.* Contracts are let under Section 8(a) of the Small Business Act to the Small Business Administration solely at the discretion of the contracting officer, and are not subject to review.

(d) *Protests filed in the Government Accountability Office (GAO).* Protests filed with the GAO will not be reviewed.

(e) *Procurements funded by USAID to which USAID is not a party.* No protest of a procurement funded by USAID shall be reviewed unless USAID is a party to the acquisition agreement.

(f) *Subcontractor protests.* Subcontractor protests will not be considered.

(g) *Judicial proceedings.* Protests will not be considered when the matter involved is the subject of litigation before a court of competent jurisdiction or when the matter involved has been decided on the merits by a court of competent jurisdiction.

(h) *Determinations of responsibility by the contracting officer.* A determination by the contracting officer that a bidder or offeror is or is not capable of performing a contract will not be reviewed by the M/OAA Director.

(i) *Small Business Certificate of Competency Program.* Any referral made to the Small Business Administration pursuant to section 8(b)(7) of the Small Business Act, or any issuance of, or refusal to issue, a certificate of competency under that section will not be reviewed by the M/OAA Director.

**Parent topic:** [Subpart 733.1—Protests](#)