

MEDIA MENTION

Wiley Rein's Paul Khoury Discusses Potential Changes to U.S. Bid Protest System

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Paul F. Khoury, a partner in Wiley Rein's Government Contracts Practice, was interviewed by *Law360* for a March 25 story on new research that has reignited the debate over potential changes to the federal bid protest system.

The article cited a study by Dan Gordon, associate dean for government procurement law at George Washington University Law School and a former administrator of the U.S. Office of Federal Procurement Policy. The study found that bid protests are much rarer than commonly believed, with less than 1 percent of federal procurements drawing challenges. While protests have increased, so has the amount the government spends on contracts.

Proposed changes to the system include imposing fees on contractors who file bid protests that the government deems frivolous, according to the article.

"I think that's a bad idea, because what it's going to do is create more litigation rather than less," Mr. Khoury said of the proposed fees. "It's just a sideshow that will create more, not less, work."

The study found that only eight or nine federal contracts out of more than 200,000 are ultimately won by a successful protester. But Mr. Khoury noted that the study involved a relatively small sample size, so contractors might not face odds that are quite so long. The research also didn't factor in settlements that can occur between an initial awardee and a protester, which usually involve a subcontract for part of the business, he said.

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Practice Areas

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"I think that everybody sort of jumped on this number, which I don't think is what he probably wanted to emphasize," Mr. Khoury said of Mr. Gordon's research. "Clients are filing protests because they see the possibility that they will ultimately get business out of it, and they continue to file them because they do get business."