

ALERT

GAO's Civilian Task and Delivery Order Protest Jurisdiction Made Permanent

December 16, 2016

WHAT: President Obama has signed H.R. 5995, the GAO Civilian Task and Delivery Order Protest Authority Act of 2016, which makes permanent the Government Accountability Office's (GAO's) authority to decide protests involving task and delivery orders worth more than \$10 million that are issued under indefinite delivery indefinite quantity (IDIQ) contracts awarded by civilian agencies.

WHEN: The Act was signed into law December 14, 2016. GAO's jurisdiction over protests of civilian agency task and delivery orders that do not allege an increase in the scope, period of performance or maximum value of the underlying IDIQ contract had previously expired on September 30, 2016, based on a sunset provision in the National Defense Authorization Act (NDAA) for Fiscal Year 2012.

WHAT DOES IT MEAN FOR INDUSTRY: Companies may again file protests at GAO challenging the terms of a civilian agency task or delivery order solicitation with an expected award value of more than \$10 million or the award of a civilian agency task or delivery order that exceeds \$10 million. GAO's jurisdiction to decide protests related to task and delivery orders issued under IDIQ contracts awarded by the Department of Defense, NASA and the Coast Guard is unchanged for now. However, the recently-passed National Defense Authorization Act for Fiscal Year 2017, which is currently awaiting the President's signature, would raise the dollar value threshold for pursuing GAO protests of those task and delivery orders from \$10 million to \$25 million.

Wiley Rein will issue an alert on the provisions in the Fiscal Year 2017 NDAA that could have significant implications for government contractors once the Act has been signed into law.

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Practice Areas

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