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: <u>Subpart 733.1—Protests</u>