

PUBLICATION

Service Contractor's Bid Protest Blocked by Lack of LEED Experience

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The lack of LEED experience cost an incumbent service contractor the ability to protest the award of a federal contract to its rival, according to an opinion released on April 22, 2014 by the United States Court of Federal Claims. In *Hughes Group, LLC v. United States*, 2014 WL 1604330 (Fed. Cl. 2014), the incumbent contractor for janitorial and landscape services filed a bid protest over the government's award of a contract to another service contractor. *Id.* The basis of the protest was the allegation that the government impermissibly engaged in discussions with the successful bidder that allowed it to make beneficial changes to its proposal. *Id.*

The court found that it did not need to consider the merits of this argument, however, because the incumbent contractor did not meet all of the criteria used in making the award. The second most important evaluation factor was green cleaning and LEED for Existing Buildings. The bid protest was dismissed for lack of standing because the court determined that the incumbent contractor did not have a substantial chance to win the award, primarily "because [the contractor] earned a rating of 'unacceptable' for LEED-EB/Green Cleaning." *Id.* at *4.

The opinion highlights the importance building owners (especially the federal government) are placing on LEED experience, and justifies many contractors' decision to encourage their employees to become accredited as LEED APs.