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*Bid Protest Standing...
or Falling Down?
Percipient.ai, Inc. v. United States*

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Percipient.ai, Inc. – An Uninvited Guest to the Interested Party?

- Full cite: *Percipient.ai, Inc. v. United States*, 104 F.4th 839 (Fed. Cir. 2024), vacated en banc.
- Brief Factual Background
- Can a disappointed potential subcontractor be an interested party for purposes of the Tucker Act?

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Fed. Cir. Opinion and Percipient's Argument

- US Court of Appeals for the Federal Circuit held in favor of Percipient:
 - Task order bar
 - Blue & Gold
 - 28 U.S.C. § 1491(b)(1) standing as a “prong three” interested party
- Percipient's argument for expanding “interested party.”

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Government's Response

- *AFGE* is directly applicable and still good law.
- Percipient is merely a disappointed subcontractor lacking standing as an interested party.

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Review En Banc: The Big Questions

- The biggest question: will the court distinguish *Percipient* from *AFGE* or not?
- The impact of legislative history?
- Where are the new lines regarding bid protest standing and bid protest subject matter jurisdiction?
- A narrow or broad reinterpretation of “interested party?”
- Broader procurement system impacts?