

PROTEST PROCEDURES

I. General

Failure of a proposer to comply with these protest procedures will render a protest inadequate and untimely, and will result in rejection of the protest. In no event shall a protest be considered if all submittals are rejected or after a contract has been executed.

II. Prior to Submission of Proposal

An interested party that is an actual or prospective proposer with a direct economic interest in the procurement may file a protest based on allegedly restrictive or defective specifications or other improprieties in the solicitation process that are apparent, or should have been reasonably discovered prior to the submission of a proposal. Such protest must be received prior to the Proposal Due Date and Time.

The protestor must have exhausted all administrative remedies specified in RFP Sections:

- 2.3.1, Request for Clarification or Modifications;
- 2.3.2, Ambiguity, Discrepancies, Omissions;
- 2.3.4, RFP Addenda; and
- The general Protest Procedures outlined here, as applicable, prior to submitting the protest. Failure to do so may be grounds for denying the protest.

III. After Award

A **proposer** submitting a proposal may protest the award based on allegations of improprieties occurring during the proposal evaluation or award period if it meets all of the following conditions:

- a. The proposer has submitted a proposal that it believes to be responsive to the solicitation document.
- b. The proposer believes that its proposal meets the administrative and technical requirements of the solicitation, proposes items and/or services of proven quality and performance, and offers a competitive cost; and
- c. The proposer believes that the Court has incorrectly selected another proposer submitting a proposal for an award.

Such protests must be received no later than five (5) business days after the protesting party receives the Notice of Intent to Award.

II. Form of Protest

A **proposer** who is qualified to protest should submit its protest to the Submittal Contact identified in RFP Section 2.1.1 who will forward the matter to the Court Financial Officer. The protest must meet the following requirements.

- Be in writing and sent by certified or registered mail or delivered personally to the address noted above. If the protest is hand-delivered, a receipt must be requested.
- Include the name, address, telephone and facsimile numbers, and e-mail address of the party protesting or their representative.
- Include the title of the solicitation document under which the protest is submitted shall be included.
- Include a detailed description of the specific legal and factual grounds of protest and any supporting documentation.
- State the specific ruling or relief requested.

The Court, at its discretion, may make a decision regarding the protest without requesting further information or documents from the protestor. If the protestor later raises new grounds or evidence that was not included in the initial protest but which could have been raised at that time, the Court will not consider such new grounds or evidence.

III. Determination of Protest Submitted Prior to Submission of Proposal

Upon receipt of a timely and proper protest based on allegedly restrictive or defective specifications or other improprieties in the solicitation process that are apparent, or should have been reasonably discovered prior to the submission of a proposal, the Court will provide a written determination to the protestor prior to the Proposal Due Date. If required, the Court may extend the Proposal Due Date to allow for a reasonable time to review the protest. If the protestor elects to appeal the decision, the protestor will follow the appeals process outlined below and the Court, at its sole discretion, may elect to withhold the contract award until the protest is resolved or denied or proceed with the award and implementation of the contract.

IV. Determination of Protest Submitted After Submission of Proposal

Upon receipt of a timely and proper protest, the Court will investigate the protest and will provide a written response to the proposer within a reasonable time. If the Court requires additional

time to review the protest and is not able to provide a response within ten (10) business days, the Court will notify the proposer. If the protestor elects to appeal the decision, the protestor must follow the appeals process outlined below and the Court, at its sole discretion, may elect to withhold the contract award until the protest is resolved or denied or proceed with the award and implementation of the contract.

II. Appeals Process

The Financial Officer's decision shall be considered the final action by the Court unless the protesting party thereafter seeks an appeal of the decision by filing a request for appeal with the Executive Officer noted in RFP Section 2.1.1 within five (5) calendar days of the issuance of the Financial Officer's decision.

The justification for appeal is limited to:

- Facts and/or information related to the protest, as previously submitted, that were not available at the time the protest was originally submitted; or
- The Financial Officer's decision contained errors of fact, and that such errors of fact were significant and material factors in the Financial Officer's decision; or
- The decision of the Financial Officer was in error of law or regulation.

The request for appeal shall include:

- The name, address telephone and facsimile numbers and e-mail address of the protestor filing the appeal or their representative;
- A copy of the Financial Officer's decision;
- The legal and factual basis for the appeal; and
- The ruling or relief requested. Issues that could have been raised earlier will not be considered on appeal.

Upon receipt of a request for appeal, the Court Executive Officer will review the request and the decision of the Financial Officer and shall issue a final determination. The decision of the Executive Officer shall constitute the Court's final action.

III. Protest Remedies

If the protest is upheld, the Court will consider all circumstances surrounding the procurement in its decision for a fair and reasonable remedy, including the seriousness of the procurement deficiency, the degree of prejudice to the protesting party or to the integrity of the competitive procurement system, the good faith

efforts of the parties, the extent of performance, the cost to the Court, the urgency of the procurement, and the impact of the recommendation(s). The Court may recommend any combination of the following remedies:

- Terminate the contract for convenience;
- Re-compete the contract;
- Issue a new solicitation;
- Refrain from exercising options to extend the term under the contract, if applicable;
- Award a contract consistent with statute or regulation; or
- Other such remedies as may be required to promote compliance.