

Effective 3/28/2016

63G-6a-1602 Protest -- Time for filing -- Basis of protest -- Authority to resolve protest.

- (1) A protest may be filed with the protest officer by a person who:
 - (a) has standing; and
 - (b) is aggrieved in connection with a procurement or an award of a contract.
- (2) A protest may not be filed after:
 - (a)
 - (i)
 - (A) the opening of bids, for a protest relating to a procurement under a bidding process; or
 - (B) the deadline for submitting responses to the solicitation, for a protest relating to another standard procurement process; or
 - (ii) the closing of the procurement stage that is the subject of the protest:
 - (A) if the protest relates to a multiple-stage procurement; and
 - (B) notwithstanding Subsections (2)(a)(i)(A) and (B); or
 - (b) the day that is seven days after the day on which the person knows or first has constructive knowledge of the facts giving rise to the protest, if:
 - (i) the protestor did not know and did not have constructive knowledge of the facts giving rise to the protest before:
 - (A) the opening of bids, for a protest relating to a procurement under a bidding process;
 - (B) the deadline for submitting responses to the solicitation, for a protest relating to another standard procurement process; or
 - (C) the closing of the procurement stage that is the subject of the protest, if the protest relates to a multiple-stage procurement; or
 - (ii) the protest relates to a procurement process not described in Subsection (2)(a).
- (3)
 - (a) A protestor shall include in a protest:
 - (i) the protestor's mailing address and email address; and
 - (ii) a concise statement of the facts and evidence:
 - (A) leading the protestor to claim that the protestor has been aggrieved in connection with a procurement and providing the grounds for the protestor's protest; and
 - (B) supporting the protestor's claim of standing.
 - (b) A protest may not be considered unless it contains facts and evidence that, if true, would establish:
 - (i) a violation of this chapter or other applicable law or rule;
 - (ii) the procurement unit's failure to follow a provision of a solicitation;
 - (iii) an error made by an evaluation committee or conducting procurement unit;
 - (iv) a bias exercised by an evaluation committee or an individual committee member, excluding a bias that is a preference arising during the evaluation process because of how well a solicitation response meets criteria in the solicitation;
 - (v) a failure to correctly apply or calculate a scoring criterion; or
 - (vi) that specifications in a solicitation are unduly restrictive or unduly anticompetitive.
- (4) A protest may not be based on:
 - (a) the rejection of a solicitation response due to a protestor's failure to attend or participate in a mandatory conference, meeting, or site visit held before the deadline for submitting a solicitation response; or
 - (b) a vague or unsubstantiated allegation.
- (5) A protest may not include a request for:
 - (a) an explanation of the rationale or scoring of evaluation committee members;

- (b) the disclosure of a protected record or protected information in addition to the information provided under the disclosure provisions of this chapter; or
 - (c) other information, documents, or explanations not explicitly provided for in this chapter.
- (6) A person who fails to file a protest within the time prescribed in Subsection (2) may not:
- (a) protest to the protest officer a solicitation or award of a contract; or
 - (b) file an action or appeal challenging a solicitation or award of a contract before an appeals panel, a court, or any other forum.
- (7) Subject to the applicable requirements of Section 63G-10-403, a protest officer or the head of a procurement unit may enter into a settlement agreement to resolve a protest.

Amended by Chapter 355, 2016 General Session