

**INDIANA DEPARTMENT OF CHILD SERVICES
ADMINISTRATIVE POLICIES AND PROCEDURES**

Policy Number: GA-20

Effective Date: May 1, 2021

Version: 1.0

POLICY TITLE: PROCUREMENT BID PROTESTS

OVERVIEW: This policy applies to all protests concerning any of the following solicitations conducted or facilitated by the Indiana Department of Child Services (DCS): Requests for Proposals (RFP), Request for Funds (RFF), Request for Quotes (RFQ), Request for Services (RFS) (if an Award Recommendation Letter results), and Negotiated Bid or Bids. The purpose of this policy is to establish a consistent, equitable process for receiving, reviewing, and responding to protests from Bidders and unsuccessful Respondents involved in the DCS procurement process. The remedies provided by this policy apply only to individuals or entities that directly participated in the solicitation process, specifically Bidders or Respondents. Any solicitation not specifically mentioned in this policy is not subject to protest or appeal. Solicitations conducted or facilitated by the Indiana Department of Administration (IDOA) may follow a different process.

I. DEFINITIONS

- A. Award Recommendation Letter: The written notification from DCS of the results of the solicitation and recommendation regarding the proposed selected Bidder or Respondent.
- B. Award Recommendation Protest: A written request from a bid respondent that was not awarded under the bid to review and potentially overturn the award decision of the bid.
- C. Bid: All the solicitation types (i.e., RFP, RFF, RFQ, RFS, RFI, and Negotiated Bids).
- D. Bidder: A person or entity that is registered with the State of Indiana to receive information regarding active solicitations.
- E. Close of business: 4:30 p.m. Eastern Time (ET) Monday through Friday. This term excludes weekend days and State holidays.
- F. Respondent: A person or entity that is participating in a procurement process but may or may not currently do business with the State.
- G. Specification Protest: A written request of a potential bidder that the documented requirements within a bid, which are to be satisfied by material, design, product, or service under the bid, are believed to be ambiguous or biased toward a particular product, service, or potential respondent.

II. REFERENCES

- A. [IC 5-22-1-3: Activities Excluded from Scope of Article](#)
- B. [IC 5-22-2-32: "Solicitation"](#)
- C. [Delegation of Purchasing Authority Program \(DPAP\)](#)
- D. Department of Child Services Procurement Manual

III. STATEMENTS OF PURPOSE

- A. After DCS releases the bid, but prior to the bid due date, a Bidder may submit a written letter of protest on the grounds the bid specifications are:
 - 1. Inadequate;

2. Unduly restrictive; or
 3. Ambiguous.
- B. After the Award Recommendation Letter has been issued, an unsuccessful Bidder or Respondent may submit a written letter of protest. The written letter of protest must set forth at least one (1) of the following bases for the protest:
1. Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
 2. Contrary to constitutional right, power, privilege, or immunity;
 3. In excess of statutory jurisdiction, authority, limitations, or short of statutory right;
 4. Without observance of procedure required by law; or
 5. Unsupported by substantial evidence that may include, but is not limited to:
 - a. A technical or mathematical mistake or error occurred during the evaluation process,
 - b. There is reason to believe the bids may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith, or
 - c. A Respondent was not accorded fair and equal treatment with respect to any opportunity for discussion and revision of bids.
- C. The protest letter should allege facts deemed to support the category or categories claimed.

IV. PROCEDURE

- A. The burden of demonstrating the invalidity of the bid specification or the Award Recommendation Letter is on the Bidder or Respondent asserting the invalidity.
- B. DCS must receive the letter of protest for a Specification Protest at least 10 business days prior to the due date for the bid response.
- C. DCS must receive the letter of protest for an Award Recommendation Protest no later than close of business on the fifth business day after the later of either:
1. The date of the Award Recommendation Letter; or
 2. The date of issuance of the Award Recommendation Letter.
- D. A letter of protest must meet the following requirements. Letters of protest that do not meet all five (5) of the below requirements will be rejected by written notification of DCS:
1. Indicate the solicitation number;
 2. Indicate, with specificity, the grounds for relief;
 3. Be received within the time requirements outlined above;
 4. Include a return address and contact information of the Bidder or Respondent;
 5. Be submitted via email to DCSProtest@dcs.in.gov or by mail to:
Vendor Complaint/Protest Coordinator
402 West Washington Street, W392
Indianapolis, Indiana 46204

- E. After receipt of a letter of protest:
 - 1. DCS' Protest Coordinator will acknowledge receipt of a letter of protest, via email and/or written letter, within five (5) business days;
 - 2. The Protest Coordinator will respond, in writing, to a letter of protest in a timely manner; and
 - 3. The contract execution will be delayed until final determination of the protest has been made.

- F. DCS' decision in response to the letter of protest shall be final and conclusive, unless an appeal is submitted and received within five (5) business days by DCS' Deputy Chief Financial Officer (CFO).

- G. A Bidder or Respondent may submit a request for appeal to the Deputy CFO if the Bidder or Respondent receives an adverse determination. The letter of appeal must meet the following requirements:
 - 1. The appeal must be in writing;
 - 2. The appeal may not state grounds for relief which were not raised in the letter of protest;
 - 3. Appeals must be received by close of business within five (5) business days of the date of DCS' response to the letter of protest; and
 - 4. Appeals must be submitted via email to DCSProtest@dcs.in.gov or by mail to:
Vendor Complaint/Protest Coordinator
402 West Washington Street, W392
Indianapolis, Indiana 46204

- H. The Deputy CFO's determination will be made as soon as is reasonably possible after receipt and review. The Deputy CFO's decision in response to the appeal shall be final and conclusive, subject to such judicial review as may be available to a party withstanding in the matter.

V. FORMS AND OTHER DOCUMENTS

N/A

APPROVED: April 7, 2021

Aaron Atwell, Chief Financial Officer (CFO)
Department of Child Services
A signed copy is on file.