

PROCUREMENT PROTEST POLICY

Prepared by: Indiana Department of Administration, Procurement Division

PURPOSE

To establish a consistent, equitable process for receiving, reviewing and responding to protests from bidders and offerors involved in the state procurement process.

SCOPE

This policy applies to all protests concerning purchases and contracts where the solicitation and award was conducted by the Department, or its designees. The remedies provided by this policy apply only to individuals or entities that directly participated in the solicitation process.

DEFINITIONS

“Award” is defined as the written determination, which shall be deemed made upon the expiration of the protest and appeal stay, which will occur after the Department’s notification to bidders and offerors, in the award recommendation letter and/or the Commissioner’s appeal determination.

“Bidder” is defined as a person or entity that responds to an invitation for bids, pursuant to IC 5-22-7-2.

“Commissioner” is defined as the Commissioner of the Department.

“Department” is defined as the Indiana Department of Administration.

“Offeror” is defined as a person or entity that responds to a request for proposals, pursuant to IC 5-22-9-2.

GROUND FOR RELIEF

A. Bid Specifications

After the request for proposals or invitation for bids is released, but prior to the bid due date, a bidder or offeror may submit a written letter of protest on the grounds that the bid specifications are:

1. Inadequate
2. Unduly restrictive; or
3. Ambiguous

B. Award

After the award recommendation letter has been issued, a bidder may submit a written letter of protest, as provided below, regarding the procurement process based on the following:

1. The award was arbitrary, capricious or an abuse of discretion;
2. Any aspect of the procurement process was conducted contrary to a constitutional, statutory or regulatory provision;
3. The award was made without observance of a procedure required by the request for proposals or invitation for bids.

4. A technical or mathematical mistake or error occurred during the evaluation process;
5. There is reason to believe that the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith;
6. An offeror was not accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals.

C. Reverse Auction Rejection

In a reverse auction, if a bid was rejected on the ground that the bid did not meet specifications, the Department will notify the bidder, in writing, of the reason for the rejection pursuant to the time frame outlined in the solicitation package.

PROCEDURES

The burden of demonstrating the invalidity of the bid specification or the award is on the bidder or offeror asserting the invalidity.

Time Requirements

1. Bid Specification Protests:
The letter of protest must be received by the Department within five (5) business days prior to the proposal or bid due date.
2. Award Protest:
The letter of protest must be received by the Department within five (5) business days after the date of award recommendation letter.
3. Reverse Auction Protest:
The letter of protest must be received by the Department within five (5) business days after the date of the notification of rejection.

Letter of Protest Requirements

1. Must indicate the solicitation number;
2. Must indicate, with specificity, the grounds for relief;
3. Must be received within the time requirements outlined above;
4. Must include a return address and contact information of bidder/offeror; and
5. Must be submitted via email to protest@idoa.in.gov or addressed to:

Vendor Complaint/Protest Coordinator
Indiana Department of Administration, Procurement Division
402 West Washington Street, Room W478/479
Indianapolis, IN 46204

Letters of protest that do not meet all five (5) requirements may be summarily rejected by written notification of the Department.

Responses/State Responsibilities

1. The Department's Protest Coordinator will acknowledge receipt of a bidder/offeror letter of protest within five (5) business days.
2. The Protest Coordinator will respond, in writing, to a letter of protest in a timely manner.
3. When a letter of protest for an award or reverse auctions is received, the award and auction will be delayed until final determination of the protest has been made. In a reverse auction, all non-rejected bidders will receive a written notice of the change in the auction status.

Appeals

Within five (5) business days of the date of the Department's response to the letter of protest, a bidder or offeror, may submit a request for appeal to the Commissioner. The request for appeal must be submitted in writing and may not state grounds for relief which were not raised in the original letter of protest. The Commissioner's determination will be made as soon as is reasonably possible upon receipt and review.

APPROVAL

Debra Walker
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