

## **Protest Procedures For Request for Proposals (RFP)**

**I. Who May File the Protest.** An offeror or prospective offeror or prospective contractor who is aggrieved in connection with the request for proposals (RFP) or award of the contract may file a protest. No protest may be filed if the request for proposals (RFP) is cancelled or if all proposals received in response to the RFP are rejected.

**II. Place for Filing.** A protest must be filed with the Issuing Office identified in the RFP.

**III. Time for Filing.**

A. A prospective offeror who is considering filing a proposal must file the protest within seven (7) days after the prospective offeror knew or should have known of the facts giving rise to the protest, but in no event later than the proposal submission deadline specified in the RFP.

B. A protest filed by an offeror who submits a proposal must be filed within seven (7) days after the protesting offeror knew or should have known of the facts giving rise to the protest, but in no event may an offeror file a protest later than seven (7) days after the date the notice of award of the contract is posted on the DGS website.

C. The date of filing is the date of receipt of the protest.

D. Commonwealth agencies are required by law to disregard any protest received beyond the deadlines established in this Section III.

**IV. Contents of Protest.**

A. A protest must be in writing.

B. A protest shall state all grounds upon which the protesting party asserts the RFP or contractor selection was improper.

C. The protesting party may submit with the protest any documents or information it deems relevant.

**V. Notice of Protest.**

A. The Issuing Office will notify the successful offeror of the protest if contractor selection has already been made.

B. If the Issuing Office receives the protest before selection, and it determines that substantial issues are raised by the protest, the Issuing Office will notify all offerors who appear to have a substantial and reasonable prospect of selection.

C. Any offeror notified of a protest pursuant to this Section V. may file its agreement/disagreement with the Issuing Office within the time period specified in the acknowledgement of protest letter sent by the Issuing Office.

**VI. Stay of Procurement.**

A. The agency head or designee will promptly decide upon receipt of a timely protest whether or not the award of a contract shall be delayed, or if the protest is timely received after the award, whether the performance of the contract should be suspended.

B. The Issuing Office shall not proceed further with the RFP unless the agency head or designee, in consultation with the using agency where applicable, makes a written determination that the protest is clearly without merit or that award of the contract without delay is necessary to

protect the substantial interests of the Commonwealth.

## **VII. Response and Reply.**

A. Within 15 days of receipt of the protest, the Issuing Officer may submit to the agency head or designee and to the protesting party a response to the protest.

B. The protesting party may file a reply to the Issuing Officer's response within ten days of the date of the response.

## **VIII. Procedures.**

A. The agency head or designee shall review the protest and any response or reply.

B. The agency head or designee may decide the merits of the protest on the written, submitted documentation; request and review any additional documents or information deemed necessary to render a determination; or, in his sole discretion, conduct a hearing.

**IX. Determination.** The agency head or designee shall promptly, but in no event later than 60 days from the filing of the protest unless both parties agree to an extension, issue a written determination. The determination shall:

A. State the reason for the decision, and

B. If the determination is a denial of the protest, inform the protesting contractor of its right to file an action in the Commonwealth Court within fifteen (15) days of the determination mailing date.

The agency head or designee shall send a copy of the determination to the protesting party and any other person determined by the agency head or designee to be affected by the determination.

**X. PHMC Agency Head Designee.** For protests of PHMC RFPs or awards of contracts for supplies and services through the competitive sealed proposals process, the Director, Bureau of Management Services is the designee to handle these protests.