

CONTRACT COMPLAINTS/PROCUREMENT PROTEST PROCESS

The following outlines the process for bidders to submit a complaint regarding contract solicitation or to protest the awarded contract.

COMPLAINTS

Bidders may submit complaints electronically to the Procurement Coordinator from the date responses are posted to Washington's Electronic Business Solution (WEBS) until 5 business days before the bid due date. The complaint may be based on any of the following:

- The solicitation unnecessarily restricts competition,
- The evaluation or scoring process is unfair or flawed, or
- The solicitation requirements are inadequate or insufficient to prepare a response.

Complaints should clearly articulate the basis for the complaint and a proposed remedy. Responses to complaints, including any changes to the solicitation, will be in writing and posted to WEBS per RCW 39.26.

The Secretary/designee will be notified of all complaints and provided a copy of the Department's response. After a response to a complaint is addressed, the complaint may not be raised again during the protest period.

DEBRIEFING OF UNSUCCESSFUL BIDDERS

A debriefing conference will be scheduled with an unsuccessful bidder within 3 business days of a request. The request must be received by the Procurement Coordinator within 3 business days from the date the notification letter is faxed/emailed to the unsuccessful bidder.

Discussion is limited to a critique of the requesting bidder's proposal. Comparisons between proposals or evaluations of the other proposals is not allowed. Debriefing conferences may be conducted in person or telephonically and will be scheduled for a maximum of one hour.

PROTESTS

Unsuccessful bidders who have participated in a debriefing conference may protest the procurement. Protests that do not follow this procedure will not be considered. This protest procedure constitutes the sole administrative remedy available to bidders under the procurement.

The protest must be received in writing by the Contracts Administrator within 3 business days after completing the debriefing conference. All protests must be signed by the protesting party or an authorized agent. Protests may be submitted by email, but the original document should be submitted.

The protest must state the action(s) being protested, justification, and a description of the relief or corrective action being requested.

Only protests concerning the following subjects will be considered:

- A matter of bias, discrimination, or conflict of interest on the part of the evaluator(s),
- Errors in computing the score, or

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- Non-compliance with procedures described in the Department of Enterprise Services (DES) rules, the procurement document or Department policy.

Protests will be rejected as without merit if they address:

- An evaluator's professional judgment on the quality of a proposal, or
- The Department's assessment of its own and/or other agencies needs or requirements.

Upon receipt of a protest, a protest review will be held by the Secretary/designee, who was not involved in the procurement. The record and all available facts will be reviewed and a decision issued within 5 business days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay.

In the event a protest may affect the interest of another bidder that submitted a proposal, such bidder will be given an opportunity to submit input and relevant information on the protest to the Contracts Administrator.

The final decision of the protest will determine if:

- The protest lacks merit,
- Only technical or harmless errors occurred during the Department's acquisition process, and the Department was in substantial compliance, or
- The protest has merit and provide the Department options, which may include:
 - Correct the errors and reevaluate all proposals,
 - Reissue the solicitation document and begin a new process, or
 - Make other findings and determine other courses of action, as appropriate.

If the Secretary/designee determines that the protest lacks merit or the Department is in substantial compliance, the Department will enter into a contract with the successful bidder. If the protest is determined to have merit, the Department will proceed with one of the options identified by the Secretary/designee.