



## **Purchasing and Contracting**

### **Solicitation and Selection Protest Protocols**

Respondents have the right to protest certain decisions in contract solicitation, selection and award processes made by the City.

#### **Grounds for Protest**

Only protests alleging an issue concerning the following subjects shall be considered:

1. A matter of bias, discrimination or conflict of interest
2. Errors in computing score
3. Non-compliance with procedures described in the solicitation or City policy

#### **Inquiry or Intention does not constitute a protest**

A notice from a company to the specified and designated recipient for such protests does not reserve the right to protest. Formal protests must be received within the required deadlines and following the proper format. A casual inquiry, complaint or a statement of the intention to protest that does not provide the facts and issues, and/or does not comply with the form, content or deadlines will not be considered or acted upon as a protest.

#### **Late protest**

The City does not have responsibility to consider or reply to protests or complaints received after the protest deadlines.

#### **Protest Form and Content**

All protests shall be in writing and state the respondent is submitting a formal protest. Protests must be filed with the City at the address below, unless an alternative designee is named within the protest solicitation document. Deliveries by hand, mail, e-mail or fax are acceptable. The City is not responsible for lost or misplaced protests, or to assure the protest is received by the respondent within the protest deadlines. If the City designee does not receive the protest in a timely manner, the protest may be rejected. The designated address, unless modified within the solicitation document, is:

Purchasing and Contracting  
Attention: Liz Alzeer, Division Director  
liz.alzeer@seattle.gov  
FAX: 206-233-5155

Delivery:  
700 Fifth Ave., Suite 4110  
Seattle, WA 98104

Postal Mail:  
Box 94687  
Seattle, WA 98124-4687

Include the following information in your protest letter and include all information you want considered within the package you submit. Failure to provide the following information may cause rejection of your protest if the materials are not sufficient for the City to adequately consider the nature of your protest:

1. Company name, mailing address, email address, phone number and name of company individual responsible for submission of the protest.
2. Identify the City Solicitation (title, number, department and/or similar).
3. State the specific action or decision being protested.
4. Indicate the basis for the protest including specific facts with back-up documentation.
5. Indicate what relief or corrective action you believe City should make.
6. Demonstrate you made every reasonable effort within the bid schedule to resolve the issue, including asking questions, attending the pre-bid conference, seeking clarification, requesting addenda, and otherwise alerting the City to any perceived problems.
7. Make sure document is signed by an authorized agent of the company.

### **When to Submit a Protest**

#### **Pre-Submittal**

Certain concerns must be filed before submittals are due. Any matter known – or that should have been known – before the submittal deadline, must be submitted to the City in writing when practical and three business days prior to the submittal deadline.

Such matters include, but are not limited to:

- Complaints about decisions or events that occurred before the submittals were due.
- Complaints about the submittal specifications, minimum qualifications, or any aspect of the submittal alleged to unduly constrain competition.
- Complaints that the pre-submittal conference was not fair or accessible.
- Complaints that questions were not fully or properly addressed by the City.
- Complaints that the submittal process did not provide adequate information or contained improper criteria.
- Any other matter known or that should have been known, to interested responders by reading the solicitation.

**Protests over the above such matters will not be accepted after the submittal deadline.**

#### **Post-Submittal**

Respondents have the right to protest:

- Rejection of a respondent as Nonresponsive or Not Responsible.
- Rejection of a respondent into a "short list" for interviews if applicable.
- Notice of Intent to Award.

**After the submittal deadline, only respondents that applied are eligible to protest.**

Protests must be filed within three business days after a notice or announcement by the City, to assure City consideration.

- The City will announce rejection of an application for responsiveness or responsibility. This announcement will go to the affected respondent. Protests concerning rejection must be filed with the City designated recipient (Purchasing and Contracting Division Director unless specified otherwise within the solicitation), within three business days after the City announcement that the respondent has been rejected to assure consideration.
- When solicitations intend to "short list" respondents for interviews and/or demonstrations, the City will announce which respondents have been selected to proceed. Protests concerning those decisions must be made within three business days after the City announcement to assure consideration.
- The "Intent to Award" announcement shall be made by the City. Protests regarding award decisions must be made within three business days of the City announcement.
- The City shall try to distribute the Intent to Award announcement to the affected respondent(s), such as posting on the City website, e-mailing and/or mailing the notice to the affected respondent(s). However, it is the respondent's responsibility to obtain the announcement from the City in a timely manner. The City is not responsible for assuring the affected respondent(s) have learned of the announcement in time to file a protest.

#### **Protest Process**

The Purchasing and Contracting Division Director will review the protest. All available facts will be considered and the Division Director shall issue a final decision. This decision shall be delivered in writing by e-mail to the protesting respondent. Each written determination of the protest shall either:

1. Find the protest lacking in merit and uphold the City action; or
2. Find only immaterial or harmless errors in the City solicitation, selection and award process and therefore reject the protest; or
3. Find merit in the protest and proceed with appropriate action, which may include but is not limited to rejecting all bids or re-tabulating applications.

If the City finds the protest without merit, the City may continue with the solicitation process or enter into a contract with the apparent successful contractor, if the contract has not been previously signed. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken. Nothing shall diminish the authority of the City to enter into a contract, whether a protest action or intention to protest has been issued or otherwise.

#### **FTA Officials to Notify**

When the City receives a bid protest, FTA expects the City to inform the FTA Regional Administrator for the region administering a regional project, or the FTA Associate Administrator for the program office administering a headquarters project directly. FTA also encourages the City to keep its FTA project manager informed about protests with which it is involved. The recipient should contact its project manager about any unusual activity.

#### **Access to Information**

FTA expects the City to disclose information about any third-party procurement protest to FTA upon request. FTA reserves the right to require the City to provide copies of a protest or all protests, and any or all related supporting documents as FTA may determine necessary.