

Bid/Proposal Protest Procedures

Right to Protest

4.5.7

A. Protest procedures shall be included, or a link thereto, in all Solicitations.

B. Any actual or prospective bidder, offeror, proposer, or vendor who is aggrieved in connection with the solicitation, evaluation, or award of a contract may formally protest, in writing, to the Associate Chief - Procurement and Strategic Sourcing (“Associate Chief”). The protest must be received by the District no later than 5:00 pm on the fifth Calendar Day after (1) the date that the protestor becomes aware of the facts giving rise to the protest or (2) the date the contract is awarded, whichever occurs earlier. Any issues not raised by the protesting party within the above-referenced deadline will not be considered as part of the protest.

C. Many potential protests can be resolved informally through discussion. Aggrieved persons are encouraged to contact the Associate Chief prior to filing a written protest to determine whether informal resolution is possible.

D. In order to be considered, a written protest notice must be in the form of a notarized affidavit executed under penalty of perjury, and must include:

1. A specific identification of the statute, regulation, or rule that the action complained of is alleged to have violated;
2. A specific description of each act alleged to have violated the statute, regulation, or rule;

3. All documents that prove the alleged violation, if such documents are accessible by the protestor. If the documents are not available to the protestor, a specific description of the nature and location of the documents must be provided;
4. An identification of the witnesses and any other evidence that establish the alleged violation;
5. An identification of the issue(s) to be resolved through the protest;
6. Argument and authorities (including policies, statutes, and case law) that support the protestor's position;
7. The remedy sought by the protestor;
8. A certification that copies of the protest have been mailed or delivered by the protesting party to DCCCD and any other interested parties. For the purpose of this section, "other interested parties" means all vendors who submitted bids or proposals for the contract involved; and
9. Contain the following statement: "***I declare under penalty of law for perjury or falsification that the information contained in the protest is true and correct to my personal knowledge, that this protest is filed in good faith and without any intent of delaying the procurement, and that I reasonably believe the protest to be meritorious.***" Such a statement shall be subscribed and sworn before a notary public. A protestor must strictly comply with this requirement.

E. Frivolous or meritless protests, as well as protests that fail to follow the requirements of this policy, may result in sanctions, including removal from future bid opportunities.

Authority to Resolve Protest

A. The Associate Chief has the authority to resolve the protest. If deemed necessary, the Associate Chief may request a meeting with the protesting party to seek clarification of the protest issues.

B. If it is determined that the protest lacks merit, the Associate Chief shall inform the protesting party and any other interested parties by a letter setting forth the reasons for the determination.

If it is determined that a violation of the rules or statutes has occurred in a case where a contract has not been awarded, he/she shall so inform the protesting party and any other interested parties by letter setting forth the reasons for the determination and the appropriate remedial action.

If it is determined that a violation of the rules or statutes has occurred in a case where a contract has been awarded, he/she shall so inform the protesting party and any other interested parties by letter setting forth the reasons for the determination, which may include ordering the contract void.

C. The protesting party may appeal the final determination of the Associate Chief to the District's Chief Financial Officer ("CFO"). The appeal shall be made in writing to, and received by, the CFO no later than 5:00 pm on the **fifth** Calendar Day from the date of the final determination by the Associate Chief. **Please note:** Copies of the appeal must be mailed or delivered by the appealing party to any other interested parties and must contain an affidavit that such copies have been provided.

D. The appeal shall be limited to review of the Associate Chief's determination. The CFO will issue a written determination on the appeal. He/she shall so inform the protesting party and any other interested parties by a letter that sets forth the reasons for the determination.

E. The determination by the CFO shall be final.

F. The District shall have no longer than forty-five (45) Calendar Days from receipt of the protest to resolve the protest.

Note: In the event that the DCCCD is required to suspend its operations and/or close its facilities, for any reason, including, but not limited to, a declaration of a national disaster and/or emergency by the Federal, applicable state and local authorities and/or to protect the life, health, and safety of the public and surrounding communities, then the District shall have ninety (90) Calendar Days from the receipt of the protest to resolve the protest.

Stay of Award

A. A protesting party may submit to the Associate Chief a written petition for stay of the contracting process during the pendency of the protest. Such stay shall become effective upon receipt by the Associate Chief.

B. The Associate Chief shall not proceed further with the solicitation process or the award until the protest has been resolved in accordance with this section unless the CFO makes a written determination that continuation of the solicitation process or the award without delay is necessary to protect substantial interests of the District and/or that the resolution of the protest will not affect the outcome of the award.