

PROCUREMENT PROTEST POLICY

The purpose of this policy is to establish a consistent, equitable process for receiving, reviewing, and responding to protests from Bidders and Offerors involved in the state procurement process.

This policy applies to all protests concerning any of the following solicitations conducted or facilitated by the Indiana Department of Administration (“IDOA” or the “Department”):

- Requests for Proposal (“RFPs”);
- Requests for Services (“RFSs”);
- Requests for Information (“RFIs”) (if an Award Recommendation Letter results); and
- Negotiated Bids or Bids.

The remedies provided by this policy apply only to individuals or entities that directly participated in the solicitation process, specifically, Bidders or Offerors.¹

Any solicitation not specifically mentioned in this policy is not subject to protest or appeal.

DEFINITIONS

“Award Recommendation Letter” means the written notification from IDOA of the results of the solicitation and a recommendation regarding the proposed selected Bidder or Offeror.

“Bidder” means a person or entity that responds to an invitation for bids.

“Bid” means all the solicitation types listed above.

“Commissioner” means the Commissioner of the IDOA.

“Close of business” means 4:30 p.m. EST Monday through Friday. This term excludes weekend days and State holidays.

“Department” means the IDOA.

“Offeror” means a person or entity that responds to solicitation (see I.C. 5-22-18).

GROUND FOR RELIEF

A. Specifications:

After the bid is released, but prior to the bid due date, a Bidder or Offeror may submit a written letter of protest on the grounds the bid specifications are:

¹ The solicitation process does not include Requests for Quote (“RFQs”) or those made pursuant to I.C. 5-22-10.

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

B. Award Recommendation:

After the Award Recommendation Letter has been issued, a Bidder or Offeror may submit a written letter of protest. The written letter of protest must set forth one of the following bases for the protest:

1. Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.
2. Contrary to constitutional right, power, privilege, or immunity.
3. In excess of statutory jurisdiction, authority, or limitations, or short of statutory right.
4. Without observance of procedure required by law.
5. Unsupported by substantial evidence that may include, but is not limited to:
 - a. A technical or mathematical mistake or error occurred during the evaluation process;
 - b. 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; or
 - c. An Offeror was not accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals.

The protest letter should allege facts deemed to support the category or categories claimed.

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 Recommendation Letter is on the Bidder or Offeror asserting the invalidity.

Time Requirements

1. **Specification Protests:**

The letter of protest must be received by close of business by the Department **ten (10) business days prior** to the due date for the Bid response.

2. Award Recommendation Protest:

The letter of protest must be received by close of business by the Department within five (5) business days after the date of the Award Recommendation Letter.

3. Reverse Auction² Protest:

The letter of protest must be received by close of business by the Department within five (5) business days after the date of the notification of rejection.

Letter of Protest Requirements³

A protest:

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; and
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 delivered in person and addressed to:

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

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

Responses/State Responsibilities

1. The Department's Protest Coordinator will acknowledge receipt of a 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 Recommendation Letter or a reverse auction is received, the contract execution and auction may 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.

IDOA's decision in response to the protest shall be final and conclusive, unless an appeal is submitted to the Commissioner.

² Pursuant to I.C. 5-22-7.5

³ Emails larger than 15 MB will automatically be bounced by State of Indiana servers and will not be deemed delivered.

Appeals

If a Bidder or Offeror receives an adverse determination, the Bidder or Offeror may submit a request for appeal to the Commissioner.

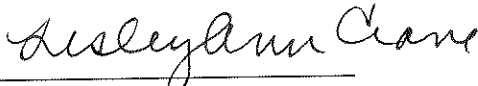
Letter of Appeal Requirements⁴

1. Appeals must be in writing;
2. They may not state grounds for relief which were not raised in the letter of protest;
3. Appeals must be received by close of business within five (5) business days of the date of the Department's response to the letter of protest; and
4. Appeals must be submitted via email to protest@idoa.in.gov or delivered in person and addressed to:

Vendor Complaint/Protest Coordinator
Indiana Department of Administration, Procurement Division
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Indianapolis, Indiana 46204

The Commissioner's determination will be made as soon as is reasonably possible after receipt and review. The Commissioner's decision in response to the appeal shall be final and conclusive, subject to such judicial review as may be available to a party with standing in the matter.

APPROVED:



Lesley A. Crane
Commissioner
Indiana Department of Administration

⁴ Emails larger than 15 MB will automatically be bounced by State of Indiana servers and will not be deemed delivered.