

## Protest Procedures for Solicitations

### A. General Protest Information

1. All Bid/Proposal recommendations will be posted on the City's website.
2. The Protest Period will begin once an award recommendation is posted on the City's website.
3. The Protest Period must be at least 7 calendar days.
4. All documents submitted by bidders and proposers shall become the property of the City and become a matter of public record available for review pursuant to Arizona State law. Bidder shall mark any information as part of the bidder's proposal that bidder deems confidential or proprietary (collectively "Proprietary Information"). If the City receives a request to review or disclose such Proprietary Information, the City will provide bidder written notice of the request to allow bidder the opportunity to obtain a court order to prevent the disclosure or review of such Proprietary Information. Bidder must obtain a court order within seven (7) calendar days from the date of the notice. If no court order is issued and received by the City within the seven day period, the City may disclose or allow the review of such Proprietary Information. When Proprietary Information is notated in the bid file, the Protest Period will be extended 7 days to allow for this process.
5. At the time the award recommendation is posted, the procurement file will be made available for bidder/proposer review. The procurement file constitutes all bidders proposals, the solicitation and all addendums, advertising documents, agendas, meeting minutes, presentations (if any), signed conflict of interest statements by evaluators, and evaluation committee consensus scoring.
6. Resolution of all protests and appeals must be complete prior to City Council action or award.
7. Each solicitation must clearly state protest procedures, procurement authority (for protests), and protest timelines.

### B. Content of the Protest

1. Protests must be in writing and submitted to the Procurement Authority (Department Director or Deputy Finance Director – Procurement for Finance Department Procurements).
2. Protests must include:
  - a. The name, address, and telephone number of the protester.
  - b. The signature of the protester or its representative
  - c. Identification of the solicitation number
  - d. A detailed statement of the legal and factual grounds of protest including copies of relevant documents
  - e. The form of relief requested.
3. Protests must be submitted within the protest period outlined in the bid document. If the protester demonstrates good cause, the Procurement Authority may consider a protest that is not filed timely.

### C. Resolution of the Protest

1. The Procurement Authority will confer with the Law Department and has the ability to resolve the protest.
2. The Procurement Authority will provide a copy of the protest letter to the recommended bidder/proposer.
3. The Procurement Authority will issue a written decision within 14 calendar days after the filing of the protest. The decision of the Procurement Authority will include:
  - a. The basis for the decision

- b. A statement that the decision may be appealed, the deadline for appeal, (must be at least 14 calendar days), and the name and contact information for the Appeal Panel.

D. Appeals of Protests

1. Authority to resolve appeals will be assigned by the City Manager to a 4-person Appeal Panel consisting of a representative of the City Manager's Office, a representative of the City Auditor's Office, a citizen committee member of the Procurement Process Improvement Workgroup, and a Department Director from a department not associated with the original procurement. The City Manager may appoint an independent Hearing Officer to hear the case in lieu of the 4-person Appeal Panel. An appeal of a protest will consist exclusively of a review of the written record by an Appeal Panel or Hearing Officer. Oral argument is at the discretion of the Hearing Officer (if one is appointed).
2. The Protester must appeal the decision in writing to the Appeal Panel or Hearing Officer within the time frame outlined in the protest response (not less than 14 calendar days) and provide a copy to the Procurement Authority.
3. The appeal must include the following information:
  - a. The information required in Section B.2. of this procedure.
  - b. A copy of the original protest and the decision letter from the Procurement Authority.
  - c. The factual or legal error in the original decision of the Procurement Authority.
4. The Procurement Authority will provide a copy of the appeal to the successful bidder/proposer.
5. The Procurement Authority will provide a written report to the Appeal Panel or Hearing Officer within 14 calendar days after receipt of the Protester's appeal that has been timely filed. The Procurement Authority's written report should include all documents relevant to the department's decisions on the proposed award, the protest, and the appeal.
6. The Appeal Panel or Hearing Officer has the final authority to resolve all timely filed appeals. The Appeal Panel's or Hearing Officer's review will be on the record. The Appeal Panel's or Hearing Officer's report will be issued to the City Manager, the Procurement Authority, and the Protester within 30 days of the date that the appeal is filed.
7. The City Manager will issue a quarterly report to the City Council listing all appeals and the resolution.