



Attachment F

PROTEST INFORMATION

This attachment is intended to provide Offerors with an overview of the Lead State's protest law, procedures, and requirements, which may be updated and amended without notice. Offerors filing a protest are wholly responsible for locating, understanding, and complying with protest law, procedures, and requirements in effect at the time of the protest.

SECTION 11-35-4210. Right to protest; procedure; duty and authority to attempt to settle; administrative review; stay of procurement.

(1) Right to Protest.

(a) A prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with a solicitation shall protest to the appropriate chief procurement officer in the manner stated in subsection (2) within fifteen days of the date of issuance of the Invitation For Bids Request for Proposals or other solicitation documents, whichever is applicable, or any amendment to it, if the amendment is at issue. An Invitation for Bids or Requests for Proposals or other solicitation document, not including an amendment to it, is considered to have been issued on the date required notice of the issuance is given in accordance with this code.

(b) Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall notify the appropriate chief procurement officer in writing of its intent to protest within seven business days of the date that award or notification of intent to award, whichever is earlier, is posted and sent in accordance with this code. Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract and has timely notified the appropriate chief procurement officer of its intent to protest, may protest to the appropriate chief procurement officer in the manner stated in subsection (2) within fifteen days of the date award or notification of intent to award, whichever is earlier, is posted and sent in accordance with this code; except that a matter that could have been raised pursuant to subitem (a) as a protest of the solicitation may not be raised as a protest of the award or intended award of a contract.

(c) Any actual or prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract pursuant to Section 11-35-1560 or Section 11-35-1570 shall notify the appropriate chief procurement officer in writing of its intent to protest within five business days of the date that award or notification of intent to award, whichever is earlier, is posted in accordance with this code. Any actual or prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of such a contract and has timely notified the appropriate chief procurement officer of its intent to protest, may protest to the appropriate chief procurement officer in the manner stated in subsection (2) within fifteen days of the date award or notification of intent to award, whichever is earlier, is posted in accordance with this code; except that a matter that could have been raised pursuant to subitem (a) as a protest of the solicitation may not be raised as a protest of the award or intended award of a contract.

(d) The rights and remedies granted by subsection (1) and Section 11-35-4410(1)(b) are not available for contracts with an actual or potential value of up to fifty thousand dollars.

(2) Protest Procedure. A protest pursuant to subsection (1) must be in writing, filed with the appropriate chief procurement officer, and set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided. The protest must be received by the appropriate chief procurement officer within the time provided in subsection (1).



(3) Duty and Authority to Attempt to Settle Protests. Before commencement of an administrative review as provided in subsection (4), the appropriate chief procurement officer, the head of the purchasing agency, or their designees may attempt to settle by mutual agreement a protest of an aggrieved bidder, offeror, contractor, or subcontractor, actual or prospective, concerning the solicitation or award of the contract. The appropriate chief procurement officer has the authority to approve any settlement reached by mutual agreement.

(4) Administrative Review and Decision. If in the opinion of the appropriate chief procurement officer, after reasonable attempt, a protest cannot be settled by mutual agreement, the appropriate chief procurement officer shall conduct promptly an administrative review. The appropriate chief procurement officer or his designee shall commence the administrative review no later than fifteen business days after the deadline for receipt of a protest has expired and shall issue a decision in writing within ten days of completion of the review. The decision must state the reasons for the action taken.

(5) Notice of Decision. A copy of the decision under subsection (4) along with a statement of appeal rights pursuant to Section 11-35-4210(6) must be mailed or otherwise furnished immediately to the protestant and other party intervening. The appropriate chief procurement officer, or his designee, also shall post a copy of the decision at a date and place communicated to all parties participating in the administrative review, and the posted decision must indicate the date of posting on its face and must be accompanied by a statement of the right to appeal provided in Section 11-35-4210(6).

(6) Finality of Decision. A decision pursuant to subsection (4) is final and conclusive, unless fraudulent or unless a person adversely affected by the decision requests a further administrative review by the Procurement Review Panel pursuant to Section 11-35-4410(1) within ten days of posting of the decision in accordance with subsection (5). The request for review must be directed to the appropriate chief procurement officer, who shall forward the request to the panel or to the Procurement Review Panel, and must be in writing, setting forth the reasons for disagreement with the decision of the appropriate chief procurement officer. The person also may request a hearing before the Procurement Review Panel. The appropriate chief procurement officer and an affected governmental body shall have the opportunity to participate fully in a later review or appeal, administrative or judicial.

(7) Automatic Stay of Procurement During Protests. In the event of a timely protest pursuant to subsection (1), the State shall not proceed further with the solicitation or award of the contract until ten days after a decision is posted by the appropriate chief procurement officer, or, in the event of timely appeal to the Procurement Review Panel, until a decision is rendered by the panel except that solicitation or award of a protested contract is not stayed if the appropriate chief procurement officer, after consultation with the head of the using agency, makes a written determination that the solicitation or award of the contract without further delay is necessary to protect the interest of the State.

(8) Notice of Chief Procurement Officer Address. Notice of the address of the appropriate chief procurement officer must be included in every notice of an intended award and in every invitation for bids, request for proposals, or other type solicitation.