



# **PROTEST PROCEDURES**

## **INTRODUCTION**

City of Allentown seeks to provide all Bidders with a fair process to resolve disputes between the Bidder and the City. This process places certain responsibilities upon the Bidder and the City and is intended to result in an administrative resolution to problems which is consistent with the City's Procurement Policy and Procedures, the principles of sound public purchasing, and the best interests of the City of Allentown.

## **DEFINITION**

A Protest is the timely written objection of a person or vendor with standing seeking remedial action based upon a recommendation or other action taken by the City.

## **PROCEDURES FOR FORMAL BIDS/PROPOSALS**

### **A. Protest Requirements:**

1. If the protest relates to the content of a solicitation, a written protest must be filed no later than 4:00 p.m. on the fifth (5<sup>th</sup>) full business day after issuance of the solicitation.
2. If the protest relates to the rejection of a response to a solicitation, a written protest must be filed no later than 4:00 p.m. on the fifth (5<sup>th</sup>) full business day after the issuance of the letter.
3. If the protest relates to the bid tabulation, a written protest must be filed no later than 4:00 p.m., on the fifth (5<sup>th</sup>) business day after posting of the bid tabulation. The formal written protest shall identify (1) the protesting party, (2) the solicitation number involved, (3) a clear statement of the grounds on which the protest is based (4) all applicable references to the statutes, laws, ordinances or other legal authorities of which the protesting party is basing the protest; and (5) specific relief to which the protesting party deems itself entitled by application of such authorities to such grounds.
4. A formal written protest is considered filed with the City when the Purchasing Department receives it. Accordingly, a protest is not timely filed unless it is received within the time specified above. Failure to file a written protest within the time period specified shall

constitute a waiver of the right to protest and result in relinquishment of all rights to protest by the bidder/offeror.

- a. Sole remedy. These procedures shall be the sole administrative remedy for challenging a solicitation document, letter, and bid tabulation. Bidders/offerors are prohibited from attempts to influence, persuade, or promote a bid protest through any other channels or means. Attempts to circumvent these procedures shall result in the immediate rejection of the protest and may lead to the protestor's debarment for a period of no more than three (3) years.
  - b. Authority to resolve. The Purchasing Agent shall resolve the protest in a fair and equitable manner and shall render a written decision to the protesting party no later than 4:00 p.m. on the fifth (5<sup>th</sup>) full business day after the filing thereof.
  - c. Review of Purchasing Agent's decision.
5. The protesting party may request a review of the Purchasing Agent's decision by the Finance Director by delivering a written request to the Finance Director for a review of the Purchasing Agent's decision by 4:00 p.m. on the fifth (5<sup>th</sup>) full business day after the date of the Purchasing Agent's written decision. The written request for review shall include pertinent written or physical materials, objects, statements, and arguments, which the bidder/proposer deems relevant to the issues raised in the review request.
6. If the Finance Director determines that the solicitation, letter or bid tabulation is in violation of applicable law, policies or procedures, the Finance Director shall cancel, cause the solicitation to be revised, or award in a manner deemed to be lawful, in the City's best interest, and permitted by this division, no later than 4:00 p.m. on the fifth (5<sup>th</sup>) full business day after receipt of the written review request. The Finance Director shall notify the protesting party in writing of the decision no later than 4:00 p.m. on the fifth (5<sup>th</sup>) full business day after receipt of the written review request.
7. If it is determined that the solicitation, letter or bid tabulation should be upheld, the Finance Director shall render a written decision to the protesting party no later than 4:00 p.m. on the fifth (5<sup>th</sup>) full business day after receipt of the written review request.

#### B. Review of Finance Director Decision

1. The protesting party may request a review of the Finance Director decision by the Protest Committee; which consists of the Finance Director, Deputy Finance Director, Council President, Purchasing Agent and Legal Representative by delivering a written request to the Clerk of City Council for a review of the Finance Director's decision by 4:00 p.m. on the

fifth (5th) full business day after the date of the Finance Director's written decision. Copies of the request for review shall also be delivered to the Director and Purchasing Agent at the same time. The written request for review shall include pertinent written or physical materials, objects, statements, and arguments, which the bidder/proposer deems relevant to the issues raised in the review request.

2. The Protest Committee will be given a minimum of five (5) full business days to review the protest and the protest will be addressed thereafter by City Council at its next regularly scheduled business meeting or as soon as possible thereafter. The protestor will be given written notice of the date of the meeting and the amount of time allotted for the protestor to address City Council (if they elect to do so) in advance of the meeting. City Councils decision shall be final and conclusive. City Council has the right to defer awarding the contested solicitation until its next regularly scheduled meeting (or later if additional research or information is required) following the meeting at which the protest is addressed.
3. *Stay of Procurement During Protests.* Nothing in this section shall require the City to stay an award during the protest process.