

PROTESTS

Purpose and Scope: This section provides a complete discussion of protests of procurement decisions.

Issues Causing Protest. Pursuant to subsection 120.57(3)(b), Florida Statutes (F.S.), any person or firm who has been adversely affected by a decision or intended decision concerning a solicitation or a notice of contract award may file a written notice of protest with the contact person listed in the solicitation document within 72 hours after the posting of the solicitation or of the notice of the department's decision or intended decision, [subsection 120.57(3)(b), F.S.]

Filing the Protest. Any person who is adversely affected by the terms, conditions and specifications contained in a solicitation, including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract shall file a notice of protest in writing within 72 hours after the posting of the notice of solicitation or decision or intended decision. When filing the protest the following requirements must be adhered to:

a) In the computation of the 72 hour time frame for filing of a protest, Saturdays, Sundays and state holidays are excluded. The contract manager must insure that the date and time of posting are documented in the contract file. (Posting on a Monday or Tuesday eliminates the need for a weekend exclusion.) Failure to timely file a notice of intent to protest shall constitute a waiver of proceedings under Chapter 120, F.S.

b. A formal protest must be filed with the contact person listed in the solicitation. The formal protest must be: [subsection 120.57(3)(b), F.S., 287.042(2)(c), F.S.]

(1) In writing; and,

(2) Filed within ten (10) days after filing of the notice of protest.

(a) No time will be added to the above time limits for mail service.

(b) The 10 day period includes Saturdays, Sundays, and state holidays, as designated in section 110.117, F.S.

(c) If the last day of the 10 day period is a Saturday, Sunday, or state holiday, as designated in section 110.117, F.S., the period shall run until the end of the next day which is neither a Saturday, Sunday, nor state holiday, as designated in section 110.117, F.S.

(d) Failure to file a protest within the time prescribed shall constitute a waiver of proceedings under Chapter 120, F.S.

(3) In substantially the same form as a petition in accordance with Rule 28-110.004, Florida Administrative Code (F.A.C.), stating with particularity the facts

and law upon which the protest is based.

(4) Accompanied by a bond payable to SFBHN and deposited in an escrow account.

(a) In lieu of a bond, a cashier's check, official bank check, or money order in the amount of the bond may be submitted to the contact person.

(b) Failure to file the proper bond at the time of filing the formal protest will result in a denial of the protest.

Posting Bond for Protest Filed. Any person who files an action protesting a decision or intended decision pertaining to contracts administered by SFBHN on behalf of the department must comply with the following requirements pursuant to subsections 120.57(3)(b), and 287.042(2)(c), F.S.

a. When protesting a decision or intended decision the protestor must post a bond equal to one percent (1%) of SFBHN's estimated contract amount. The estimated contract amount shall be based upon the contract price submitted by the protestor. If no contract price was submitted, SFBHN shall estimate the contract amount based on factors including, but not limited to, the following:

- (1) The price of previous or existing contracts for similar or contractual services.
- (2) The amount allocated by the Department for the services to be provided.

b) Protest Resolution

- (1) Protests are submitted first to the SFBHN Executive Director for resolution
- (2) SFBHN Executive Director submits resolution to the President of the Board for approval.

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