

CHAPTER 2 - ADMINISTRATION

Sec. 2-321. Procurement Code; protests; informal and formal.

(1) *Right to Protest.* Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Materials Manager. The protest shall be submitted in writing within five (5) business days after contract award. A formal protest shall be in writing signed by an authorized party, containing their name, address and telephone number, identification of the contract, a detailed statement of the legal and factual grounds of the protest, including copies of all relevant documents and the specific relief requested.

(2) *Authority to Resolve Protests.* The Materials Manager or his designee shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest of an aggrieved bidder, offeror, or contractor, actual or prospective, concerning the solicitation or award of a contract. This authority shall be exercised in accordance with this code and the procurement guidelines promulgated by the Materials Manager.

(3) *Decision.*

If the protest is not resolved by mutual agreement, the Materials Manager shall promptly issue a decision in writing within fifteen (15) business days. The decision shall,

- (a) state the reasons for the action taken; and
- (b) inform the protestant of its right to judicial or administrative review as provided in this Article.

(4) *Notice of Decision.* A copy of the decision under Subsection (3) of this Section shall be mailed or otherwise furnished immediately to the protestant and any other interested party.

(5) *Finality of Decision.* A decision under Subsection (3) of this Section conclusive, unless an appeal is filed within five (5) business days following the date of the receipt of the decision by the Materials Manager that is the subject of the protest.

(6) *Formal Appeal Process.* The formal appeal shall be heard by the city's hearing officer or any other hearing officer appointed by the city for such purposes within fifteen (15) business days or as reasonably possible after filing of the date of appeal, unless extended by the hearing officer. The hearing officer may reject the protest, sustain the protest or reject or sustain in part and shall provide for an appropriate remedy. In determining an appropriate remedy, the hearing officer shall consider the circumstances surrounding the procurement or proposed procurement including, but not limited to the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, the extent of performance, costs to the city, the urgency of the procurement and the impact of the relief upon the city.

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An appropriate remedy may include one or more of the following:

- (a) Decline to exercise an option to renew under the contract;
- (b) Terminate the contract;
- (c) Reissue the solicitation;
- (d) Issue a new solicitation;
- (e) Award a contract consistent with city codes and policies;
- (f) Such other relief as is determined necessary to ensure compliance with the procurement code, procurement guidelines, and procedures.

ABA Model Procurement Code Reference 09-101

(Ord. No. 91-09, 2/12/91)

(Ord. No. 99-13, 4/6/99, Amended)

(Ord. 01-165, 10/16/01, Amended) SUPP 2001-3

(Ord. No. 08-01, 1/15/08, Amended) SUPP 2008-1