

## Bid Protest Procedures Samples

*This document contains samples and is not intended to be all inclusive.*

### Sample #1

1. Who may file the protest: Any bidder or prospective bidder who is aggrieved in connection with an Invitation for Bid (IFB) or Request for Proposal (RFP) from [Any School Name] or the award of a contract obtained through such a process may file a protest. Protests relating to cancellation of IFBs and RFPs and protest relating to the rejection of all bids are not permitted. A bidder is a person or organization that submits a bid in response to the IFB/RFP. A prospective bidder is one who has not submitted a bid.
2. Time for filing:
  - a. If a protest is submitted by a prospective bidder, it must be filed within five business days after the prospective bidder knew or should have known of the facts giving rise to the protest. In no event may a prospective bidder be allowed to submit a protest after bid opening time.
  - b. If a protest is filed by a bidder, the protest must be filed within five business day after the protesting bidder knew or should have known of the facts giving rise to the protest. Once the bid opening has occurred, the bidder has five business days to file a protest. The date of filing is the date of receipt of the protest by the School District.
3. Form of protest:
  - a. All bid protest must be in writing and filed with the Superintendent at [Any School Name], [Any Street], [Any City], PA, [Any Zip].
  - b. The protest must state all grounds upon which the protesting party asserts that the solicitation or award was improper. Issues not raised by the protesting party in the protest are deemed waived and may not be raised on appeal.
  - c. The protesting party may submit with the protest any documents or information deemed relevant.
4. Notice of protest: If award has been made, the Superintendent shall notify the successful bidder or contractor of the protest. If the protest is received before award and substantial issues are raised by the protest, all bidders who appear to have a substantial and reasonable prospect of winning the award shall be notified and may file their agreement/disagreement with the Superintendent within three days after receipt of notice of the protest.
5. Stay of Procurement: The Superintendent shall immediately decide, upon receipt of the protest, whether or not the solicitation or award should be stayed, or if the protest is timely received after the reward, whether the performance of the contract should be suspended. If it is deemed that the protest has merit, the Superintendent shall not proceed further with the bid process or award of the contract, and shall suspend performance under the contract if awarded, unless the award of the contract without delay is necessary to protect the substantial interests of the School District.
6. Procedures:
  - a. Within five days of receipt of the protest, the Superintendent shall submit to the protesting party a response to the protest. The protesting party then has five days to file a response.
  - b. The Superintendent shall review and decide the merits of the protest based on all documentation and information, including the initial protest, subsequent responses,

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and any additional documentation provided. The Superintendent may, in her/her sole discretion, conduct a hearing.

- c. If the protest occurred prior to the bid opening date, the Superintendent shall decide on the merits of the protest within a reasonable time period, and, if necessary, reschedule the bid award accordingly. If the protest occurred subsequent to the bid opening, the Superintendent shall decide on the merits of the protest prior to the final vote of award by the Board of Directors.
- d. Within five days of making his decision, the Superintendent shall notify all affected parties in writing of his determination. The determination shall state the reason for the decision, and if the determination is a denial of the protest, inform the protesting party of its right to file an action in the Commonwealth Court within fifteen days of the determination mailing date.

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### Sample #2

#### Procedures Pre-bid Opening

- A. Any request for clarification or protest of specifications on the bid point calculator and evaluation criteria must be received by the business manager in writing before the date of the scheduled bid opening.
- B. Upon receipt of a timely protest, the business manager shall determine if the date for the bid opening or closing date for receipt of proposals should be postponed. If the bid opening date is postponed, the business manager will contact all parties who were furnished a copy of the bid specifications to advise that an appeal has been filed and that the bid opening or closing date for receipt of proposals is postponed until a decision has been issued. Notice of any postponement will be made in writing.
- C. Representatives of [Any School Name] and the protestor shall meet and/or discuss the substantive issues raised in a timely manner. Upon completions of the meeting or discussion between [Any School Name] and the protestor, the business manager will transmit a final decision in writing to the protestor and to all parties submitting bids.
- D. Upon issuance of the written decision to a timely protest, the business manager and administrative services will issue an addendum to reschedule the date of bid opening or closing for the receipt of proposals. Any change of the previously-specified dates will be made in writing to the protestor and to all parties submitting a bid.

#### Procedures After Bid Award

- A. Protests regarding the bid award must be submitted in writing and received by the business manager not more than 14 days the bid award notification is issued.
- B. Any protest must specify the factual basis of the bid protest, an itemization of all procedural and substantive objections to the bid award, and all documentary evidence supporting the bid protest.
- C. Protest shall be limited to irregularities in the bid or evaluation process and may not seek re-evaluation of the subjective or objective evaluations used to award the bid.
- D. The business manager shall review the timely protest and issue a written determination to the protestor. The business manager may meet with the bid protestor at his/her discretion to discuss the protest. The decision of the bid protest is final and not subject to additional internal review.
- E. Notice of any protest and all decision will be provided to the bid recipient and all other bidding parties.
- F. If a bid protest is granted, the business manager shall notify the bid recipient and all bidders in writing of the decision and of further action to be taken in conjunction with the bid input from the federal/or state agencies involved.
- G. An appeal to state or federal agencies may only be commenced following the exhaustion of the internal appeal mechanism as set forth.

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## Sample #3

### Procedure

A proposer protesting for any reason the RFP, an RFP procedure, the District's objection to the proposer, or a person or entity by the proposer, the award of the contract or any other aspect arising from or relating in any way to the RFP shall cause a written protest to be filled with the District within seven days of the event giving rise to the protest and in, any event, no later than seven business days after the date upon which proposals are opened (Saturday, Sunday, and legal holidays are not included). The written protest shall include the name of the protesting bidder, a detailed description of the specific grounds for protest, copies of all supporting documents and the specific relief requested. Protests shall be delivered to: Business Manager, [Any School], [Any Street], [Any City], PA [Any Zip].

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A protest must be in writing and shall state all grounds upon which the protesting party asserts the RFP or contractor selection was improper. The proposer protesting may submit any documents or information it deems relevant.

### Consideration

Upon receipt of the written protest, the District will consider the protest. The District may, within 15 business days of receipt of the protest, provide any other affected proposer(s) the opportunity to respond in writing to the protest. A proposer protesting may respond to the District's reply within 10 days of the District's response. If the protest is not resolved by mutual agreement of the District and the protesting proposer, the Superintendent of the District or designee will review the issues and promptly furnish a final and binding written decision to the protesting proposer and any other affected proposer(s) within 60 business days of the District's receipt of the protest. If more than one protest is filed, the District's decision will be provided within 60 business days of the District's receipt of the last protest. If no reply is received from the District during the 60 business day period, the protest shall be deemed rejected.

### Waiver

Failure to comply with these protest procedures will render a protest waived.