

Enterprise Services Procedure No. [PRO-DES-170-00](#)

Protest Procedure: Review and Decision

Applies to: Agencies when conducting a competitive solicitation for goods or services under [RCW 39.26](#),

- When in receipt of a protest on a goods and/or services competitive solicitation conducted under [RCW 39.26.170 Complaints - Protests](#); or
- When assisting other agencies, in the role of Protest Officer, addressing a protest.

Effective date: April 26, 2021

Last update: N/A

Sunset review date: 5 years from effective date

Approved by:  Chris Liu, Director

Related state law: No. [RCW 39.26.170 Complaints - Protests](#)

Related DES statewide policy No. [POL-DES-170-00 Complaints and Protest Policy](#)

Resource: Sample Protest Officer's [Protest Review and Conclusion](#)

Resource: Sample Protest Officer's [Response Letter](#)

Summary of Tasks

Action By	Action
Protest Officer <i>(assigned neutral party, that had no involvement in the evaluation/award process to investigate and respond to the protest)</i>	<ol style="list-style-type: none"> 1. Receives protest from bidder(s): <ol style="list-style-type: none"> a. Signs a procurement integrity certification form. b. Acknowledges receipt of protest by sending a written communication to the protesting bidder(s) and Agency Procurement Coordinator.
Agency Procurement Coordinator	<ol style="list-style-type: none"> 2. Documents procurement file of protest, to include saving the protest letter(s) in the appropriate electronic and/or hard copy procurement file.
	<ol style="list-style-type: none"> 3. Forwards the procurement records to the Protest Officer within 1 business day from receipt of protest(s), to include (or identify where they can be found): <ol style="list-style-type: none"> a. Solicitation document, including all amendments b. Indicate if a pre-bid conference was held. Include any documents from the pre-bid conference. c. Vendor responses d. Summary of bid development, evaluation, and award e. Evaluation documents, including bid tabulation, evaluator scoring sheets, etc. (if applicable) f. Access to all correspondence g. Other (as requested by the Protest Officer)

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Protest Officer	4. Requests all related e-mail correspondence from the agency's Public Records Officer. The request should include key search parameters, such as time frame, key procurement staff, procurement identifier, and protesting party(ies) name.
Agency Public Records Officer	5. Provides electronic access to all related e-mail correspondence to the Protest Officer within 3 business days of the request.
Protest Officer	6. Investigates protest issues: <ul style="list-style-type: none"> a. Develops a protest process timeline (if applicable) b. Investigates protest issues, using the procurement file documentation, correspondence, and any other related documentation or notes. <ul style="list-style-type: none"> i. Ensures compliance with Protest Policy ii. Ensures agency complied with solicitation requirements, such as bid evaluation, etc. as it relates to the protest issues. c. Reviews all related e-mail correspondence for information related to issuing a protest decision. d. Interviews relevant agency staff and others as needed. e. Creates a "Protest Review and Conclusion" document to summarize the protest issues, background information, documents used for investigation, investigation findings, Protest Officer's response/decision, and any other findings that surfaced during the review. f. Requests additional information from agency procurement coordinator needed to complete the investigation.
	7. Confirms key facts and debriefs with agency procurement coordinator and supervisor. This step is not an opportunity to provide counter argument, challenge the decision, or to invite edits, but is to ensure that all facts are accurate and that the Protest Officer has not missed any critical or relevant facts pertinent to the protest.
Agency Procurement Coordinator	8. Confirms key facts: <ul style="list-style-type: none"> a. Identify any mistakes in facts and/or provide missing critical or relevant facts pertinent to the protest. b. Notify Protest Officer if all facts are accurate and accounted for.
Protest Officer	9. If a protest response will not be issued within 10 business days from receipt of the protest, sends a notification notifying the protesting bidder of additional time needed. <ul style="list-style-type: none"> a. Notification can be accomplished by email.
	10. Prepares protest response letter(s), using the sample as a guide.
	11. Sends protest response to protesting bidder. <ul style="list-style-type: none"> a. Print the protest response on agency letterhead, sign, and scan for procurement file. b. E-mail protest response to the protesting bidder. c. Send copies to cc's indicated on the protest response letter.

Action By	Action
	12. Sends a copy of the Protest Officer's response to the Agency Procurement Coordinator.
	13. Provides a copy of the original protest and the agency's response to the DES Director, to include information on whether a pre-bid conference was held.
DES Enterprise Procurement Policy Team	14. Inputs protest response date and decision into Protest Tracking spreadsheet.
Agency Procurement Manager	15. At least quarterly, performs a debrief /lessons learned for any recent procurement protests delivered to agency contracting staff.

History

First effective date

April 26, 2021