

BIDDING PROCEDURES

FILE: DJE

TITLE: Resolution of Protests from Solicitation Process

POLICY:

The following procedures shall govern the resolution of protests arising from the solicitation process as required by Policy DJB, Purchasing Procedures, prior to initiation of formal or informal proceedings pursuant to Chapter 120, Florida Statutes.

- (1) The Superintendent or designee shall provide notice of a decision or intended decision concerning a solicitation or contract award as follows.
 - (a) For solicitations and contract awards, notice of a decision or intended decision shall be by electronic posting.
 - (b) This notice shall contain the following statement: "Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."
- (2) Any person who is affected adversely by the notice of decision or intended decision of the School Board ("Board") shall file with the Senior Director of the Procurement Services Department a notice of protest in writing within seventy-two (72) hours after the posting of the notice of decision or intended decision.
- (3) With respect to a protest of 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, the notice of protest shall be filed in writing within seventy-two (72) hours after the posting of the solicitation.
- (4) A formal written protest must be filed within ten (10) days, excluding Saturdays, Sundays, and state holidays, after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under Chapter 120, Florida Statutes. The formal written protest shall contain the following.
 - (a) Name and address of the Board and the Board's solicitation number, if known;
 - (b) Name, address, and contact information of the affected party;
 - (c) A statement, with particularity, of the facts and law upon which the protest is based; if there are no disputed material facts, the petition must so indicate;
 - (d) A concise statement of the ultimate facts alleged and of the rules, regulations, statutes, and constitutional provisions entitling the affected party to relief;

- (e) A demand for the relief to which the affected party deems itself entitled; and
 - (f) Such other information as the affected party deems to be material to the issue.
- (5) Upon receipt of the formal written protest that has been timely filed, the Board or designee shall stop the solicitation or contract award process until the subject of the protest is resolved by final Board action, unless the Board sets forth in writing particular facts and circumstances which require the continuance of the solicitation or contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.
- (6) The Senior Director of Procurement Services or designee, on his/her own initiative or upon the request of a protestor, shall provide an opportunity to resolve the protest by mutual agreement between the parties within seven (7) days, excluding Saturdays, Sundays, and state holidays, after receipt of a formal written protest.
- (a) If the subject of a protest is not resolved by mutual agreement within seven (7) days, excluding Saturdays, Sundays, and state holidays, following receipt of the formal written protest and if there is no disputed issue of material fact, an informal proceeding shall be conducted by the Board pursuant to Section 120.57, Florida Statutes.
 - (b) If the subject of a protest is not resolved by mutual agreement within seven (7) days, excluding Saturdays, Sundays, and state holidays, following receipt of the formal written protest and if there is a disputed issue of material fact, the Board shall refer the matter to the Division of Administrative Hearings of the Department of Administration for a formal hearing pursuant to Section 120.57, Florida Statutes.

SPECIFIC AUTHORITY:

Sections 120.53 120.569; and 120.57, Florida Statutes

Rules 28-110.003 and 28-110.004, Florida Administrative Code

ADOPTED: 11/17/08

REVISED: 6/23/15