



City of Coral Gables

PROTEST PROCEDURE

AUTHORITY: City of Coral Gables Procurement Code, Section 2-910

PURPOSE

The purpose of this policy is to provide guidance, for any party involved in a competitive process, on the steps involved in submitting a protest to a solicitation or award recommendation issued for a City project.

APPLICABILITY

This policy applies to all formal solicitations issued City projects.

SCOPE

For the purpose of this policy-

A "formal" bid protest involves the award of a City contract valued in excess of \$25,000

SECTION 1. TYPES OF PROTEST

1.1 *Protest of solicitation.* Any actual or prospective offeror who perceives itself aggrieved in connection with the formal solicitation of a contract or who intends to contest bid specifications or a bid solicitation.

1.2 *Protest of award.* Any actual responsive and responsible bidder who perceives they are aggrieved in connection with the recommended award of contract may file a written protest with the city clerk's office

SECTION 2. WHEN TO FILE

2.1 For the protest of a solicitation, the prospective offeror may file a written notice of intent to file a protest with the city clerk's office three (3) calendar days "prior" to the date set for opening of bids or receipt of proposals.

2.2 For the protest of an award, a written "intent to protest" must be submitted to the city clerk's office within three (3) calendar days of the recommendation to award notice.

2.3 A notice of intent to file a protest is only considered filed when received by the city clerk's office.

2.4 No time will be added to the time limits to accommodate service by mail or any other delivery method. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday in which event the period shall run until the next day which is not a Saturday, Sunday or legal holiday.

2.5 After the "intent to protest" an award is officially filed and received by the Clerk's office, the

formal written detailed protest must be filed within five (5) calendar days of the intent notice.

- 2.6 The protestor must have participated in the solicitation process in order to have standing to issue a protest.

SECTION 3. HOW TO FILE A PROTEST

3.1 A formal written protest must be submitted that states with particularity the specific facts and law upon which the protest of the solicitation or the award is based, and shall include all pertinent documents and evidence and shall be accompanied by the required filing fee as outlined in this section.

3.2 The protest must be filed with the City Clerk's office during the operating hours of 8:00 A.M through 4:30 P.M., Monday through Fridays (with the exception of City declared holidays). The Clerk's office is located in City Hall at 405 Biltmore Way, 1st Floor, Coral Gables, FL 33134

3.3 The protest document submitted by the protestor shall form the basis for review of the written protest and no facts, grounds, documentation or evidence not contained in the protestor's submission at the time of filing the protest shall be permitted in the consideration of the written protest.

3.4 The written protest may not challenge the relative weight of the evaluation criteria or the formula for assigning points in making an award determination.

3.5 The written protest must be accompanied by a filing fee in the form of a money order or cashier's check payable to the city in an amount equal to one percent of the amount of the bid or proposed contract, or \$2,500.00, whichever is less. The filing fee shall guarantee the payment of all costs, which may be adjudged against the protestor in any administrative or court proceeding. If the protest is denied, the filing fee shall be forfeited to the city in lieu of payment of costs for the administrative proceedings. If the protest is upheld by the city, the filing fee shall be refunded to the protestor less any costs generated by facilitating the process.

3.6 Filing Fee:

<u>Contract Award Amount</u>	<u>Filing Fee</u>
\$25,000-\$250,000	1% of the contract award amount
Over \$250,000	\$2,500

*All costs accruing from a protest shall be assumed by the protestor

3.7 Failure of a party to timely file either the notice of intent to file a protest or the written protest, or submit the filing fee, with the city clerk's office within the time provided in subsections (a), (b) and/or (c), above, shall constitute a forfeiture of such party's right to file a protest pursuant to referenced procurement code section. The protesting party shall not be entitled to seek redress before the city commission or seek judicial relief without first having followed the procedure set forth in this section.

SECTION 4. ONCE A PROTEST HAS BEEN FILED

- 4.1 The City Clerk shall promptly distribute copies of the written protest to procurement, the user department, the city manager, the mayor, city commissioners and the city attorney's office.
- 4.2 Upon receipt of a written protest filed pursuant to the requirements of the procurement code, the city shall not proceed further with the solicitation or with the award of the contract until the protest is resolved by the city manager or the city commission.
- 4.3 If the intent to protest is related to the solicitation, a notice to extend the close date of the solicitation will be issued to allow for sufficient time to address the issue(s) outlined in the notice filed by the protester.

SECTION 5. PROTEST REVIEW PROCESS

- 5.1 The procurement officer, after consultation with the city attorney, shall issue a written recommendation within ten (10) business days after receipt of the written protest. Said recommendation shall be sent to the city manager with a copy to the protesting party.
- 5.2 The city manager may then either resolve the protest or reject all proposals.
- 5.3 On any protest on a contract for supplies, equipment, services and construction not exceeding \$100,000.00 the city manager as authorized in section 2-586 shall have sole authority to resolve in the best interests of the city
- 5.4 The city manager, after consultation with the head of the user department, the procurement officer, and the city attorney, may make a written determination that the solicitation process or the contract award must be continued without delay in order to avoid an immediate and serious danger to the public health, safety or welfare and protect substantial interests of the city.
- 5.5 A determination shall be made no later than 30 days from receipt of the protest, unless it is determined that additional time is necessary to address the issues presented. If additional time is required, the protester will be notified in writing.
- 5.6 Once the City Manager has made a final determination on the matter, an official notice will be provided in writing and filed with the city clerk.
- 5.7 The determination by the City Manager shall be considered bidding based on the authority as outlined in the procurement code section 2-586.

SECTION 6. FINAL RULING (COMMISSION HEARING)

- 6.1 If the value of the award exceeds the authority of the city manager, a recommendation to the city commission for approval or disapproval thereof will be submitted for their consideration.
- 6.2 A publicly noticed item will be set for the next available City Commission agenda. The protester will be advised of the upcoming meeting and advised to prepare their arguments to support their claims.

- 6.3 The matter will be publicly discussed and debated before the City Commission. A letter drafted by the City Attorney will outline the procedures for the matter and will be provided to all involved parties prior to setting the item for a commission agenda.
- 6.4 All parties will be expected to adhere to the pre-established rules for order and exceptions will not be allowed.
- 6.5 Under no circumstances will the scheduling of the item be determined by protester. The protester is obligated to be available for the presentation date scheduled by the City. If the protester is unable to present their case, the decision will automatically be rendered in the City's favor on the matter.
- 6.5 The final determination issued by the City Commission during this process shall be considered bidding.
- 6.6 A protest of an award of a contract by the city commission may be filed with the circuit court pursuant to the Florida Rules of Appellate Procedure.
-