



City of Jacksonville, Florida

Procurement Protest Procedures

214 N. Hogan Street Suite 800, Jacksonville, Florida 32202
(904) 255-8800-Phone; (904) 255-8837 Fax; www.coj.net

126.901 Protest Procedures

A. Purpose and Scope: These protest procedures are promulgated pursuant to 126.901, Part 9 of the Jacksonville Ordinance Code (the “Jax P-Code”), which authorizes the Jacksonville Procurement Awards Committee (the “JPAC”) to prepare and publish rules and regulations governing bid protests. In the event a court of competent jurisdiction declares any provision of these Procurement Protest Procedures to be unconstitutional, invalid, or otherwise unenforceable, then all remaining provisions shall be severable, valid, and enforceable regardless of the invalidity of any other provision.

1. In accordance with the procedures contained herein, any actual or prospective respondent to a City of Jacksonville competitive solicitation, be it person or entity that is adversely affected by a decision or an intended decision concerning a solicitation, solicitation documents, award, or any other process or procedure prescribed in the Jax P-Code and who has standing to protest said decision or intended decision under Florida Law (the “Protestant”), must timely file a written Notice of Protest seeking to challenge the decision or intended decision.

2. The issue(s) raised, and the information contained in the Notice of Protest and any supplemental documentation filed must clearly identify and explain the factual and legal basis for any relief sought and shall be the only issue(s) and information the Protestant may present for consideration to the Chief of Procurement or before the JPAC.

B. Definitions: For these Protest Procedures, the following definitions are provided:

1. “Competitive solicitation” or “solicitation” shall include without limitation a formal invitation to bid, competitive sealed bid, multi-step competitive sealed bid, competitive sealed proposal, or a request for proposals and/or qualifications.

2. “Posting” means the notification of solicitations, decisions or intended decision, or other matters

relating to procurement on a centralized internet website, by placing the same on the bulletin board(s) designated by the Procurement Division for this purpose, or as may be consistent with 126.303(b) of the Jax P-Code.

3. “Non-competitive purchase” means any single source procurement pursuant to 126.306 (a) (8) of the Jax P-Code and Section (4) (H) of the Procurement Operating Manual.

4. “Electronic transfer” is limited solely to email transmissions that appear legibly on paper to the Chief of Procurement.

5. “Final agency action” means a final decision that results from a proceeding hereunder, and includes actions which are affirmative, negative, injunctive, or declaratory in form.

6. “Procurement process” has the same meaning as “contract solicitation or award process.”

C. Timely Notice of Protest:

1. Recommendations of Award and/or Bid Rejection. A Protestant shall have forty-eight (48) hours after either the posting or written notification of a decision or intended decision, whichever is earlier, in which to file a written Notice of Protest in order to timely challenge or seek relief from a Procurement Division recommended award of an exceptional purchase or an award or recommended conclusion to any formal bid or proposal solicitation process, including without limitation: (i) a recommendation to reject a bid or proposal; (ii) a contract award; or (iii) the short listing of bidders or proposers.

2. Specifications and/or Requirements. A Protestant shall have ten (10) business days after the posting of a solicitation or forty-eight (48) hours after the posted date and time of a pre-bid or pre-proposal conference, whichever is earlier, or 48 hours after the

posting of an addendum, in which to file a written Notice of Protest in order to timely challenge the requirements, terms and/or conditions contained in bid or proposal documents, including without limitation any provisions governing or establishing: (i) the basis for making the award in question; (ii) evaluation criteria; (iii) equipment, product, or material specifications; (iv) proposed project schedules; (v) statements regarding participation goals or other equal opportunity measures; or (vi) other general solicitation or project requirements.

3. Computation of Time: The computation of the time limitations or periods contained herein shall be governed by and shall be pursuant to Florida Rule of Civil Procedure 1.090(a) Florida Rule of Judicial Administration 2.514. Failure to file a written Notice of Protest within the applicable time limitation or period shall constitute a waiver of any right, remedy, or relief available hereunder.

4. Form and Content of the Notice of Protest: A written Notice of Protest shall: (i) be addressed to the Chief; (ii) identify the solicitation, decision, or recommended award in question by number and title or any other language sufficient to enable the Chief to identify the same; (iii) state the timeliness of the protest; (iv) state Protestant's legal standing to protest; and (v) clearly state with particularity the issue(s), material fact(s) and legal authority upon which the protest is based.

D. Request for Extension to File Supplemental Protest Documentation: At the time of filing a timely Notice of Protest hereunder, a Protestant may request an extension of three (3) business days after the date its Notice of Protest is timely received, in which to provide supplemental protest documentation. Failure to do so or to timely submit the supplemental protest documentation shall constitute a waiver of any right to the same.

E. Delivery: The timely filing of a Notice of Protest shall be accomplished when said notice is received by the Procurement Division within the applicable time limitation or period contained herein. Filing a notice may be accomplished by manual transfer via hand-delivery or mail to the Chief of Procurement at 214 N. Hogan Street, 8th floor, Jacksonville, Florida 32202 or by email to dustinf@coj.net. The responsibility and burden of proof that its Notice of Protest has been

timely and properly received shall rest with the Protestant, regardless as to the method of delivery employed.

F. Stay of Procurement During Protest: The City shall not proceed further with the competitive solicitation of or with the award of the contract until the purchasing agent, after consultation with the head of the using agency, makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the City.

G. Authority to Resolve: Upon the receipt of a timely filed written Notice of Protest, the Chief of Procurement shall have the authority to settle and resolve the timely filed protest.

1. Chief of Procurement Decision: If in working with the protestant, and the respective requirement owner/s (Using Agency), the Chief or his/her designee cannot settle or resolve the Protest, and there was not a mutual agreement made, the Chief shall promptly issue a decision in writing, emailed to the Protestant that states; the reasons for the action taken; and informs the Protestant of its right to an administrative review as provided in the Jax P-Code.

2. Administrative Review Protest: The Protestant shall have forty eight (48) hours after receiving the written decision via email from the Chief or his/her designee to timely file a protest seeking JPACs administrative review of the originally filed protest. This protest shall follow the same methods of format and delivery previously used for the original protest.

H. JPAC Administrative Review Process: Upon receipt of a timely filed protest requesting an administrative review. The Chief or his/her designee shall schedule and provide the aggrieved respondent with notice of the time, date, and place where the administrative review will be heard. Any other actual or prospective respondents, other than the Protestant, who will be directly affected by the resolution of the protest shall also be given notice of the protest hearing, the Notice of Protest, and any supplemental protest documentation shall be made available to them upon a written request for the same.

1. JPAC Procedures: Hearings hereunder shall begin with a general statement of the rules and procedures prescribed herein by a representative of

the committee, followed by a general statement of the facts by a representative of the Procurement Division. Representatives of the Protestant, limited solely to its owners, officers, employees and/or legal counsel, will then be required to present its case based solely upon the issue(s) and information contained in the Notice of Protest and any timely submitted supplemental protest documentation.

2. All respondents or potential respondents to the intended decision in question, who would be directly affected by the resolution of the protest shall be given an opportunity to be heard and to present information before the committee, which will be followed by a statement and the presentation of information from the Procurement Division and other governmental representatives. The Protestant must establish by the preponderance of the evidence that the protest should be granted based upon the law, facts and information presented. The committee is entitled to ask questions of any party at any time during the hearing.

3. For hearings hereunder, the formal rules of evidence pursuant to the Florida Evidence Code may be relaxed at the sole discretion of the presiding chairperson of the applicable committee. Hearsay evidence may be admissible and used to supplement or explain other evidence.

4. Unless otherwise provided by the Code, the burden

of proof shall rest with the Protestant. The standard of proof for proceedings hereunder shall be whether a Procurement Division recommendation or the decision or intended decision in question was clearly erroneous, arbitrary, or capricious, fraudulent, or otherwise without any basis in fact or law. In any protest proceeding challenging a decision or intended decision to reject all bids, proposals, or replies, the standard of review shall be whether the decision or intended decision is illegal, arbitrary, dishonest, or fraudulent.

5. A majority vote of the members of the applicable committee shall be required to grant a protest, hereunder; otherwise, the protest shall be denied, and, upon execution by the mayor or his designee, said vote and/or decision of the JPAC shall be posted and shall represent final agency action.

I. Independent Agency, Board or Delegated Authority: If a protest is filed and the solicitation is for the benefit of an independent agency, board, or delegated authority that has its own established procurement procedure and does not use the city's procurement process and/or protest procedures, then the person or entity protesting must follow the protest procedures of that independent agency, board, or delegated authority.

Certificate of Adoption & Implementation

The preceding Procurement Protest Procedures are hereby adopted this 01st day of July 2024, by the undersigned Chief of Procurement for immediate implementation, and will remain in full force and effect until such time as they may be formally revised, amended, supplemented, suspended, or abolished.

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