

## **Phase One Protest Procedures**

### **Protests Prior to Submission of Request for Proposal (RFP)**

A submitter may protest the terms of this RFP prior to the time for submission of Statement of Qualifications (SOQ) on the grounds that:

- a. A material provision in this RFP is ambiguous to the extent that it hinders the Submitter's ability to accurately respond;
- b. Any aspect of the procurement process described herein is contrary to legal requirements applicable to this procurement; or
- c. This RFP in whole or in part exceeds the authority of Department of Enterprise Services.

Protests regarding this RFP shall be filed only after the submitter has informally discussed the nature and basis of the protest with the point of contact in an effort to remove the grounds for protest.

Protests regarding this RFP shall completely and succinctly state the grounds for protest and shall include all factual and legal documentation in sufficient detail to establish the merits of the protest. Evidentiary statements, if any, shall be submitted as signed, certified declarations under penalty of perjury.

Protests regarding this RFP shall be filed by hand delivery or courier to the point of contact. The time for filing a protest is as soon as the basis for protest is known to the submitter, but in any event it must be actually received no later than ten (10) days before the RFP submittal due date. Protests regarding an Addendum to the RFP shall be filed and actually received no later than five (5) business days after the Addendum to the RFP is issued.

Enterprise Services will distribute copies of the protest to the other submitters and may, at its sole discretion: (1) request that other submitters submit statements or arguments regarding the protest, and (2) discuss the protest with the protesting submitter. If other submitters are requested to submit statements or arguments, they may file a statement in support of or in opposition to the protest within seven (7) calendar days of the request.

The protesting submitter shall have the burden of proving its protest by clear and convincing evidence. No hearing will be held on the protest. The Enterprise Services' Assistant Director of Facilities shall decide the protest on the basis of the written submissions. Enterprise Services' Assistant Director of Facilities shall issue the decision in writing to each Submitter. The decision shall be final and conclusive. If necessary to address the issues raised in the protest, Enterprise Services will make appropriate revisions to this RFP by issuing Addenda. Enterprise Services may extend the RFP due date, if necessary, to address any protest issues.

The failure of a submitter to protest a particular ground prior to submission of the RFP shall preclude consideration of that ground in any protest after submission of the RFP. However, this preclusion does not apply if such ground was not and could not have been known to the submitter prior to the final date to protest after submission of the RFP.