

## Procurement Dispute and Protest

### *Policy*

It is the policy of Central Florida Behavioral Health Network, (CFBHN) that all disputes and protests are handled in an open, fair and transparent manner.

### *Purpose*

The purpose of the policy is to outline the procedures to be use to settle all disputes and protests.

### *Procedure*

#### 1. Issues Causing Protest

Any person who is adversely affected by:

- A. The terms, conditions and specifications contained in a solicitation;
- B. Any provisions governing the methods for ranking bids, proposals, or replies;
- C. Awarding contracts, reserving rights of further negotiation, or modifying or amending any contract; and/or
- D. A decision or intended decision shall file a notice of intent to protest in writing.

#### 2. Filing the Protest

- A. The notice of intent to protest must be produced within 72 hours after the posting of the notice of solicitation, the decision or intended decision.
- B. In the computation of the 72-hour time frame for the filing of a protest, Saturdays, Sundays and state holidays are excluded. The Procurement or Contract Manager must ensure that the date and time of the posting are documented in the contract file. (Posting on a Monday or Tuesday eliminates the need for a weekend exclusion.) Failure to file a timely notice of intent to protest shall constitute a waiver of proceedings.
- C. A formal protest must be filed with the contact person listed in the solicitation (or the Contract Manager if other than competitive procurement). The formal protest must be made in writing, and filed within ten (10) days after filing of the notice of protest.
- D. No time will be added to the time limits for mail service. The 10 day period includes Saturdays, Sundays, and state holidays. If the last day of the 10 day period is a Saturday, Sunday, or state holiday, the period shall run until the end of the next day which is neither a Saturday, Sunday, nor state holiday. Failure to file a protest within the time prescribed shall constitute a waiver of proceedings.

#### 3. Content of Formal Written Notice of Protest

The formal written notice of protest should be printed, typewritten, or otherwise duplicated in legible form. The content of the formal written notice of protest must contain:

- A. The name and address of the person or firm filing the protest, and an explanation of how its substantial interests have been affected by the solicitation or by the CFBHN's notice of intended or actual contract award;
- B. A statement of how and when the person or firm filing the protest received notice of the solicitation, or notice of the CFBHN's intended or actual contract award;

**Procurement Dispute and Protest** (Continued)

- C. With particularity, the facts and law upon which the protest is based;
  - D. A statement of all issues of disputed material facts (if there are none, the protest must indicate such);
  - E. A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the person or firm filing the protest to relief;
  - F. A demand for relief to which the person or firm deems himself/itself entitled; and,
  - G. Any other information which the person or firm contends is material
4. Posting Bond for Protest Filed
- A. Any person who files an action protesting a decision or intended decision pertaining to contracts administered by CFBHN must comply with the requirements listed below.
  - B. When protesting a decision or intended decision, the protestor must post a bond equal to one percent (1%) of CFBHN's estimated contract amount. The estimated contract amount shall be based upon the contract price submitted by the protestor. If no contract price was submitted, the CFBHN shall estimate the contract amount based on factors including, but not limited to:
    - 1) The price of previous or existing contracts for similar or contractual services.
    - 2) The amount appropriated by the Legislature for the contract.
    - 3) The fair market value of similar contractual services.
  - C. Bond is payable to CFBHN at the time of the filing the formal written protest. In lieu of a bond, CFBHN may accept a cashier's check, official bank check, or money order in the required amount. Failure to file the proper bond at the time of filing the formal protest will result in a denial of the protest.
  - D. CFBHN shall provide the estimated contract amount to the protestor within 72 hours after the notice of protest has been filed (excluding Saturdays, Sundays and state holidays). The estimated contract amount is not subject to protest.
  - E. The bond shall be conditioned upon the payment of all costs and charges that are adjudged against the protestor in the administrative hearing in which action is brought, and in any subsequent appellate court proceeding.
  - F. The official hours of office operation for receipt of an intent to protest and/or a petition and bond are 8:00 AM to 5:00 PM local time. Upon receipt of the formal written notice of protest, the contact person must secure the bond, cashier's check, official bank check or money order until resolution of the protest.
5. CFBHN's Response to Protest
- A. Upon receipt of a formal written notice of protest, the solicitation process or contract award process is stopped until the protest is resolved. Upon receipt of a protest, the Director of Contracts shall immediately consult the appropriate legal counsel. With legal counsel, the contract signer must determine whether or not to accept or reject the protest.

**Procurement Dispute and Protest (Continued)**

B. The CEO/COO of CFBHN, if it is deemed necessary, may set forth in writing, particular facts and circumstances which may require continuance of the solicitation processes, or the contract award process, on an emergency basis without the above mentioned delay in order to avoid immediate and serious danger to public health, safety, or welfare. This written determination will specifically detail the facts underlying the decision and will constitute final agency action.

6. Resolution of the Protest

A. Upon receipt of the intent to protest or formal written notice of protest, the Procurement or Contract Manager may work with the protestor to resolve the protest by mutual agreement on an informal basis. The Procurement or Contract Manager will have seven (7) days after receipt of the formal written notice of protest to resolve the protest through mutual agreement. The seven (7) days excludes Saturdays, Sundays, and state holidays.

B. If the protest is not resolved by mutual agreement within seven (7) days excluding Saturdays, Sundays, and state holidays, of receipt of the formal written protest, and there is no disputed issue of material fact, the CEO of CFBHN shall designate a management staff who shall conduct an informal proceeding. If the protest is not resolved by the management staff within seven (7) days, excluding Saturdays, Sundays, and state holidays, the formal written protest shall be referred to the Department of Children and Families for final decision.

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| <p>CFBHN Policy – Procurement Dispute and Protest</p> <p>Approval: _____<br/>Linda McKinnon, President/ Chief Executive Officer</p> | <p>Date Issued: <u>07/19/10</u></p> <p>Last Review Date: <u>06/05/18</u></p> <p>Last Revision Date: <u>11/15/10</u></p> |
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