

01 NCAC 05B .1519 PROTEST PROCEDURES

(a) To insure fairness to all offerors and to promote open competition, agencies and the Division of Purchase and Contract shall actively follow-up and be consistent in responding to an offeror's protest over contract awards.

(b) This Rule applies only to contracts with an actual or estimated dollar value over ten thousand dollars (\$10,000). Agencies may establish procedures to handle an offeror's concerns for contracts with less dollar value.

(c) When an offeror wants to protest a contract awarded by an agency over ten thousand dollars (\$10,000) in value, the agency and the offeror shall comply with the following:

- (1) The offeror shall submit a written request for a protest meeting to the agency's executive officer which shall be received by the agency's executive officer's office within 30 consecutive calendar days from the date of the contract award. The executive officer shall furnish a copy of this letter to the SPO within five consecutive calendar days of receipt. The offeror's letter shall contain specific reasons and any supporting documentation for why it has a concern with the award. If the letter does not contain this information, or if the executive officer determines that a meeting would serve no purpose, then the executive officer may, within 10 consecutive calendar days from the date of receipt of the letter, respond in writing to the offeror and refuse the protest meeting request. A copy of the executive officer's letter shall be forwarded to the SPO.
- (2) If the protest meeting is granted, the executive officer shall attempt to schedule the meeting within 30 consecutive calendar days after receipt of the letter, or as soon as possible thereafter. Within 10 consecutive calendar days from the date of the protest meeting, the executive officer shall respond to the offeror in writing with the executive officer's decision. A copy of the executive officer's letter shall be forwarded to the SPO.
- (3) The agency shall notify the SPO in writing of any further administrative or judicial review of the contract award.
- (4) The executive officer may appoint a designee to act on the executive officer's behalf under this Rule.

(d) When an offeror wants to protest a contract awarded by the Secretary over ten thousand dollars (\$10,000) in value, the SPO and the offeror shall comply with the following:

- (1) The offeror shall submit a written request for a protest meeting to the SPO which shall be received by the Division within 30 consecutive calendar days from the date of the contract award. The offeror's letter shall contain specific reasons and any supporting documentation for why it has a concern with the award. If the letter does not contain this information, or if the SPO determines that a meeting would serve no purpose, then the SPO may, within 10 consecutive calendar days from the date of receipt of the letter, respond in writing to the offeror and refuse the protest meeting request.
- (2) If the protest meeting is granted, the SPO shall attempt to schedule the meeting within 30 consecutive calendar days after receipt of the letter, or as soon as possible thereafter. Within 10 consecutive calendar days from the date of the protest meeting, the SPO shall respond to the offeror in writing with the SPO's decision.

*History Note: Authority G.S. 150B-2; 150B-22; 150B-23; 143-53;
Eff. February 1, 1996;
Temporary Amendment Eff. February 15, 1998;
Amended Eff. April 1, 1999.*