

Appendix F



PROCUREMENT PROTEST PROCEDURES

1.0 Protest Process Overview

This describes the mandatory administrative procedure whereby vendors may challenge the solicitation process and whereby bidders/offerors may challenge solicitation awards made by GTA.

1.1 Formal Protests

A vendor may file a written protest challenging GTA's compliance with applicable procurement procedures subject to the vendor's compliance with the following provisions. Any such written protest will be resolved in accordance with the following provisions.

1.2 Exemption for GTA Informal Procurements

GTA informal procurements not posted to the Georgia Procurement Registry ("GPR") will not be subject to these protest procedures. These informal procurements are limited to Statements of Need (SON) that are solicited informally to selected qualified contractors from a public Request for Proposal (RFP) or Request for Qualified Contractors (RFQC) solicitation previously awarded by GTA. Statement of Need procurements are considered informal solicitations, and as such the informal dispute resolution of the internal SON solicitation process resulting from disputes or issues raised by a qualified contractor will apply and be resolved by the Procurement Director.

This process is only available for those qualified contractors selected during the conclusion of a Request for Qualified Contractors (RFQC). All resolution decisions by the Procurement Director will be final.

1.3 Types of Challenges

Any aggrieved vendor interested in and capable of responding to a competitive solicitation may file a protest with respect to the competitive solicitation process, including but not limited to a challenge to specifications or any events or facts arising during the solicitation process. Any aggrieved vendor interested in and capable of providing the goods/services identified in a sole source notice may file a protest challenging the sole source determination. Any aggrieved vendor submitting an accepted bid/proposal in response to a competitive solicitation may file a protest with respect to the GTA's intended or actual contract award, including but not limited to events or facts arising during the evaluation and/or negotiation process.

1.4 Form of Protest

At a minimum, the written protest shall comply with Section 1.5 and must include the following:

1. the name and address of the protestor;
2. envelope or email subject line must be labeled "Protest"
3. appropriate identification of the solicitation/sole source notice;
4. a statement of reasons for the protest;
5. supporting exhibits, evidence or documents to substantiate any claims unless not available within the filing time (in which case the vendor must proceed to file the protest



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- when the filing period identified below but state the expected availability of the material);
and
6. the desired remedy.

GTA, at its discretion, may deem issues not raised in the initial protest as waived with prejudice by the protesting vendor.

1.5 Filing Protests

A protest is considered to be properly filed when it is in writing, signed by a company officer authorized to sign contracts on behalf of the vendor, and is received by GTA. The protest may be sent by any of the following means:

MAIL: Attn: Procurement Director
Georgia Technology Authority
47 Trinity Avenue, 3rd Floor
Atlanta, GA 30334-9010

FAX: 404-657-8444

EMAIL: procurement@gta.ga.gov

The following deadlines shall apply when filing a protest for solicitations posted to the GPR:

Type of Protest	Protest Filing Deadline
Challenge to Competitive Solicitation Procedures	Five (5) business days prior to the closing date and time of the solicitation as identified on the GPR
Challenge to Sole Source Notice	Prior to the closing date and time of the Sole Source Notice as published on the GPR
Challenge to an Intended or Actual Solicitation Award	In the event the GTA posts a Notice of Intent to Award (NOIA), the protest must be filed within ten calendar days of the date the NOIA is posted
	In the event the GTA does not post a NOIA, the protest must be filed within five calendar days of the date the NOA is posted

1.6 Stay of Procurement During Protest Review

When a protest challenging the competitive solicitation process, for procurements posted to the GPR, has been timely filed at least five (5) business days prior to the closing date and time, the solicitation process shall remain active until an award decision is issued by a NOA, unless the



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GTA Procurement Director makes a written determination that the suspension of the solicitation process without delay is necessary to protect the interests of GTA.

When a protest challenging a sole source notice or an intended contract award has been timely filed and the challenge demonstrates that the sole source award is not in the best interest of the State; the GTA shall not proceed to actual contract award unless the GTA makes a written determination that the issuance of a contract or performance of the contract without delay is necessary to protect the interests of GTA. If it is determined that it is necessary to proceed with contract performance without delay, the bidder/offeror with this contingent contract may proceed with performance and receive payment for work performed in strict accordance with the terms of the contract; however, such bidder/offer shall not be entitled to reimbursement for any capital outlay costs, or other up front expenditures incurred in performing the contract. The provisions of this paragraph are not applicable to a protest pertaining to events or facts arising during the solicitation process.

1.7 Protest Resolution

The GTA Procurement Director shall review and issue a written decision on the protest as expeditiously as possible after receiving all relevant requested information from the GTA and/or issuing officer. Available remedies for sustained protests are as follows:

- If a protest is sustained prior to the closing date and time of the solicitation, available remedies may include, but are not limited to, the following: modification of the solicitation document, including but not limited to specifications and terms and conditions; extension of the solicitation closing date and time (as appropriate); and cancellation of the solicitation.
- If a protest of a sole source notice is sustained, available remedies include revision or cancellation of the sole source notice.
- If a protest of the intended/actual contract award is sustained, available remedies may include, but are not limited to, the following: revision or cancellation of the NOIA/NOA, re-evaluation and re-award or re-solicitation with appropriate changes to the new solicitation.

1.8 Cost

In no event shall a vendor be entitled to recover any costs incurred in connection with the solicitation or protest process, including, but not limited to, the costs of preparing a bid/proposal, the costs of participating in the protest/request for formal review process or any attorneys' fees.

1.9 Requests for Formal Review Process of a Protest Decision

All protest determinations by the GTA Procurement Director concerning solicitations, sole source notices, and/or intended/actual contract awards with an estimated value of \$100,000 or more shall be subject to formal review by the GTA Executive Director/CIO upon written request by parties of the protest determination. In the event the estimated value of the solicitation, sole source notice, and/or intended/actual contract award is less than \$100,000, it shall be within the GTA Executive Director's discretion whether such request for formal review will be granted. The following parties may file a request for formal review: (1) any vendor adversely impacted by the



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protest decision, including, but not limited to, the protesting vendor, provided the vendor is interested in and capable of providing the goods/services at issue and, in the event the underlying protest disputes an intended/actual contract award, submitted a timely bid/proposal and (2) the GTA.

Any request for formal review must be received by the GTA Executive Director/CIO, to include a copy mailed to the attention of the GTA General Counsel, within three (3) business days of the issuance of the protest decision by U.S. mail or delivery service. The request for formal review must be in writing and shall identify any errors in the protest decision as well as the factual and legal grounds upon which reversal or modification of the protest decision is deemed warranted:

MAIL: Attn: Executive Director/CIO
Georgia Technology Authority
47 Trinity Avenue 6th Floor
Atlanta, GA 30334-9010

and

Cc: Attn: General Counsel
Georgia Technology Authority
47 Trinity Avenue, 6th Floor
Atlanta, GA 30334-9010