

**RESOLUTION OF PROTESTS FROM THE CONTRACT BIDDING
PROCESS**

7.701

The following procedures shall govern the resolution of protests from contract bidding procedures prior to initiation of formal or informal proceedings pursuant to Chapter 120, Florida Statutes.

- I. The School Board encourages fair and prompt resolution of all disputes with the business community. In order to resolve disputed matters in an equitable manner, the following procedures are adopted.
 - A. Notice of an intended decision shall be given by posting the bid tabulation at the location where the bids were opened and on the School District's website. This notice shall contain the following statement: "Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the protest bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."
 - B. To qualify a protest for consideration, the protester(s) must establish a substantial interest in the outcome of the protest. The next bidder, who, but for the successful bidder, would have been the successful bidder, is hereby deemed to have such a substantial interest. If the protester does not have a substantial interest in the outcome of the protest, it will be administratively dismissed. If doubt exists whether the protester has standing to protest, his/her standing to challenge the successful bidder will be determined by the School Board's representative.
- II. Any person who is adversely affected by the School Board's intended decision shall file with the School Board a notice of protest, in writing, within seventy-two (72) hours, excluding Saturdays, Sundays, and legal holidays, after the posting of the bid tabulation and a formal written protest within ten (10) days after the date the notice of protest was filed.
 - A. Any protest involving the specifications, the terms and conditions and any other aspect of the invitation to bid or request for proposal must be filed, in writing, within seventy-two (72) hours, excluding Saturdays, Sundays, and legal holidays, after the receipt of notice of the project plans and specifications or intended project plans and specifications in an invitation to bid or request for proposal. The formal written protest shall be filed within ten (10) days after the notice of protest is filed.
 - B. Failure to file a notice of protest within the time prescribed in Florida Statutes, or failure to post the protest bond or other security required by law within the time allowed for filing a bond, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

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- C. Only the reasons identified in the initial formal written protest shall be heard in each step of the protest resolution process. Failure to file a formal written protest shall constitute a waiver of proceedings under Chapter 120, Florida Statutes. Protests are to be filed with the Purchasing Office and a telegraphic or facsimile notice of the formal written protest will not be accepted.
 - D. The formal written protest shall state with particularity the facts and law upon which the protest is based. The formal written protest shall contain the bid title, the name and address of the protesting party and the title or position of the person submitting the protest, a statement of the facts alleged and the rules, regulations, statutes, and constitutional provisions entitling the protesting party to relief, and a statement indicating the relief sought by the protesting party.
- III. Upon receipt of a formal written protest which has been timely filed, the School Board shall stop the bid solicitation process or the contract award process until the subject of the protest is resolved unless the School Board's representative sets forth in writing particular facts and circumstances which require the continuance of the bid solicitation process or the contract award process without delay to avoid an immediate and serious danger to the public health, safety or welfare.
- A. Cost Deposit - The protesting party shall deposit an amount equal to one percent (1%) of the estimated contract value in the form of a protest bond, cashier's check or money order made payable to The School Board of Sarasota County, Florida, no later than the deadline for filing of the formal written protest. This provision does not apply to matters arising under subsection B. below:
 - 1. Said amount shall be deposited with the Director of Materials Management to defray the costs incurred in considering the protest; and
 - 2. Said amount shall be recovered, without interest, if the protesting party should prevail.
 - B. Bond - Pursuant to Section 255.0516, Florida Statutes, with respect to protests relating to educational facilities or public buildings, the protester shall be required to post a protest bond amounting to:
 - 1. Twenty-five thousand dollars (\$25,000.00) or two percent (2%) of the lowest accepted bid, whichever is greater, for projects valued over five hundred thousand dollars (\$500,000.00) or five percent (5%) of the lowest accepted bid for all other projects.
 - 2. Said bond shall be submitted to the Director of Materials Management.

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- C. Failure to comply with the bond/security requirements stated herein shall be deemed as a nonconforming protest and shall not be heard.
- IV. The School Board, on its own initiative or upon the request of a protester, shall provide an opportunity to resolve the protest by mutual agreement between the protester and the School Board's representative within seven (7) days, excluding Saturdays, Sundays, and legal holidays, after receipt of a formal written protest, unless both parties agree to a later date.
 - A. If the subject of a protest is not resolved by mutual agreement within seven (7) days, excluding Saturdays, Sundays, and legal holidays, after receipt of the formal written protest, and if there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant to Florida Statutes.
 - B. If the subject of a protest is not resolved by mutual agreement within seven (7) days, excluding Saturdays, Sundays, and legal holidays, after receipt of the formal written protest, and if there is a disputed issue of material fact, the School Board shall refer the matter to the Division of Administrative Hearings of the Department of Administration for a formal hearing pursuant to Florida Statutes.
- V. All documents required or permitted to be filed pursuant to this section shall be deemed filed when received by the Purchasing Office during normal business hours (8:00 a.m. to 4:30 p.m.). Any document received after 4:30 p.m., shall be filed as of 8:00 a.m. on the next regular business day.
- VI. In a competitive procurement protest, no submissions made after the bid or proposal opening amending or supplementing the bid or proposal shall be considered. Unless otherwise provided by statute, the burden of proof shall rest with the party protesting the proposed School Board action.

STATUTORY AUTHORITY: 1001.42, 1001.43, F.S.

LAW(S) IMPLEMENTED: 120.53, 120.57, 255.0516, F.S.

HISTORY: ADOPTED: 08/21/01
REVISION DATE(S): 05/20/03, 01/27/06, 11/6/18
FORMERLY: 6.10

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