933.103 Protests to the agency.

(a) *Reference.* The Department of Energy (DOE) does not accept or adjudicate protests from prospective subcontractors.

(c) The Department of Energy encourages direct negotiations between an offeror and the contracting officer, including alternative dispute resolution (ADR) techniques. A protest requesting a decision at the Headquarters level shall state whether the protester is willing to utilize ADR techniques such as mediation or nonbinding evaluation of the protest by a neutral party. Both the protester and the Department must agree that the use of such techniques is appropriate. If the parties do not mutually agree to utilize ADR techniques to resolve the protest, the protest will be processed in accordance with the procedures set forth in paragraphs (f) and (g) of this section.

(f)(5) Upon receipt of a protest filed against DOE, the contracting officer shall prepare a report similar to that discussed in FAR 33.104(a)(3)(iv).

(6) Protests filed with the contracting officer before or after award shall be decided by the HCA except for the following cases, which shall be decided by the Senior Procurement Executive:

(i) The protester requests that the protest be decided by the Senior Procurement Executive;

(ii) The HCA is the contracting officer of record at the time the protest is filed, having signed either the solicitation where the award has not been made, or the contract, where the award or nomination of the apparent successful offeror has been made;

(iii) The HCA concludes that one or more of the issues raised in the protest have the potential for significant impact on Department of Energy (DOE) acquisition policy; or

(iv) The SPE elects to decide the protest.

(g) The official identified in paragraph (f)(6) of this section will render a decision on a protest within 35 calendar days, unless a longer period of time is deemed necessary.

Parent topic: Subpart 933.1—Protests