PART 5833 - PROTESTS, DISPUTES, AND APPEALS

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SUBPART 5833.1 – PROTESTS

5833.103 Protests to the Agency

(d)(4) When an agency protest is denied, an offeror may request an independent review by the Chief of the Contracting Office (CoCO) and/or the Head of the Contracting Office (HCO).

(f)(1) The approving official for the justification/determination is the Head of the Contracting Activity (HCA). Approval requests shall be forwarded to the HCA electronically, coordinated through the CoCO, HCO, legal counsel, and the OSBP if the protester is a small business. See DARS PGI 5801.9003 for routing procedures.

(3) The approving official for the justification/determination is the HCA. Approval requests shall be forwarded to the HCA electronically, coordinated through the CoCO, HCO, local legal counsel, and the OSBP if the protester is a small business. See DARS PGI 5801.9003 for routing procedures. https://www.ditco.disa.mil/DITCOContractingTemplates/

(S-90) Upon receipt of a protest, the contracting officer shall immediately advise the CoCO, HCO, and legal counsel. The written decision shall be sent to the protester by certified mail or by any other means that provides evidence of receipt. The decision, with all supporting documentation, shall be coordinated with legal counsel. If the protest involves competition, coordination shall also include the Agency Competition Advocate. Supporting documentation should, as a minimum, include the following:

(1) The protest;

(2) The offer submitted by the protesting offeror;

(3) The offer which is being considered for award or which is being protested;

(4) The solicitation, including relevant attachments;

(5) The price/cost analysis or abstract of offers;

(6) Any other documents relevant to the protest;

(7) A statement signed by the contracting officer setting forth findings, actions, and recommendations; and

(8) Any additional evidence or information deemed necessary in determining the validity of the protest.

5833.104 Protest to GAO

(b) Protests before award.

(1) The HCO shall notify the HCA of the intent to pursue an override within 2 business day after protest notification. The HCO shall coordinate with legal counsel a written finding for approval. The maximum business days from protest notification to presentation of the written finding to the HCA for approval shall not exceed 5 business days. The HCA will make a decision to authorize award or continued performance within 3 business days of receipt of the written finding. The contracting officer shall immediately suspend performance while requesting an override.

The contracting officer must prepare the written finding to be signed by the HCA. However, no award can be made or selection announced prior to approval by the HCA. The contracting officer must also prepare a request for approval that identifies all protest issues and addresses the merits and expected resolution of the protest. Include details of any congressional interest in the protest.

(c) Protests after award.

(2) The contracting officer must prepare a written finding to be signed by the HCA.

(S-90) *HCA Notification.*

Upon receipt of a protest, the contracting officer shall immediately advise the CoCO, HCO and legal counsel.

SUBPART 5833.2 – DISPUTES AND APPEALS

5833.204 Policy

Contracting Officers (KO) shall try to resolve all contractual issues in controversy by mutual agreement prior to or after receipt of a claim. KOs may use Alternative Dispute Resolution (ADR) IAW FAR 33.214 or negotiate a settlement agreement to settle a controversy by mutual agreement.

(S-90) Settlements. The contracting officer must coordinate with legal counsel, a DITCO Cost/Price Analyst, the CoCO, and the HCO on proposed ADR or settlement agreements. Mutual agreements with a contractor may be finalized in a bi-lateral modification. Mutual agreements that change contract price, quantity or level of effort shall be finalized in a bi-lateral modification.

5833.206 Initiation of a Claim

Upon receipt of a claim, the contracting officer shall immediately advise the CoCO, HCO, and legal counsel.

5833.211 Contracting Officer’s Decision

(a) The KO shall make a final decision on any claim by or against a contractor regarding a claim that is not resolved by mutual agreement IAW FAR 33.211. KOs must coordinate with legal counsel and the CoCO and HCO prior to issuing a KO final decision.