

**MARICOPA ASSOCIATION OF GOVERNMENTS (“MAG”)  
Protest Policy and Procedures for Solicitations and Awards**

**1. Filing a protest**

An aggrieved person or entity may protest a solicitation or a proposed contract award. This policy provides the exclusive procedure for filing a protest in relation to any procurement conducted by MAG.

**2. Time of filing**

A protest alleging defects or ambiguities in the solicitation shall be filed no later than three (3) business days before the date set for closing date for receipt of proposals. All other protests shall be filed within five (5) business days after the protestor knew or should have known the basis for the protest. At least five (5) business days before award of a contract, the Executive Director shall publicly disclose and notify all proposers in writing of the Executive Director's recommendation to the Regional Council or Executive Committee regarding the contract award. The public disclosure may be in the form of an agenda for the Regional Council or Executive Committee meeting at which the award will take place. The Regional Council or Executive Committee shall not make an award for five (5) business days following issuance of a decision or dispositive order on a protest, except as permitted under section 9.1. Awards of contracts shall be final and no protest may be filed after award.

**3. Contents of a protest**

A protest shall be in writing and shall:

- State the name and address of the aggrieved person or entity;
- Identify the contracting activity and the name of the solicitation;
- Contain a statement of the grounds of the protest; and
- Include supporting exhibits, evidence or documents to substantiate any claims, unless not available within the filing time in which case the expected availability date shall be indicated. If supporting evidence is not available within the filing time, all supplemental evidence shall be submitted within seven (7) business days of the filing of the protest.

**4. Place of filing a protest**

A protest shall be filed within applicable time limits at the following address:

Contracts@azmag.gov

Attention: Executive Director

**5. Stay of Procurement**

If a protest is filed before the award of a contract or before performance of a contract has begun, the award may be made or contract performance may proceed, unless the Executive Director

stays the contract award or performance by determining in writing that there is a reasonable probability that the protest will be sustained.

## **6. Hearings**

If the Executive Director determines that a hearing is appropriate, the Executive Director shall notify the protestor of the time and place set for a hearing on the protest. The Executive Director may also give notice of the hearing to any other persons involved in the solicitation whose interests may be affected by the ruling requested from the Executive Director. Any person whose interest is affected shall be permitted to intervene and participate in such hearing.

The Executive Director shall dismiss a protest, upon a written determination, before scheduling a hearing, if:

- The protest does not state a valid basis for protest; or
- The protest is untimely pursuant to these guidelines.

If a protestor fails to appear and participate in the hearing, the Executive Director may summarily rule upon the protest based upon information then available to the Executive Director.

## **7. Decision**

The Executive Director shall issue a written ruling within a reasonable time after conclusion of the hearing. The ruling shall be final.

## **8. Remedies**

Generally, if the Executive Director sustains the protest in whole or part and determines that a solicitation or proposed contract award does not comply with the applicable procurement statutes, applicable grant requirements or MAG's procurement policy, the Executive Director, in his or her sole discretion, shall implement an appropriate remedy. In determining an appropriate remedy, the Executive Director shall consider all the circumstances surrounding the procurement or proposed procurement including, but not limited to, the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, costs to MAG, the urgency of the procurement and the impact of the relief.

Possible remedies may include one or more of the following:

- Reissuance of the solicitation;
- Issuance of a new or amended solicitation;
- Terminate the contract;
- Award of a contract consistent with procurement statutes, applicable grant requirements or these guidelines; and/or
- Such other relief as is determined necessary to ensure compliance with applicable procurement statutes, applicable grant requirements or MAG's procurement policy.

## **9. Protests to the Federal grant awarding agencies**

Generally, under certain limited circumstances, an interested party may protest to the applicable federal grant awarding agency the award of a contract funded under a federal grant. The federal grant awarding agency's review of any protest shall be limited to (1) an alleged violation of federal law or regulations and (2) an alleged failure of MAG to follow these protest procedures.

### **9.1 Time for filing**

Protesters shall file a protest with the federal grant awarding agency not later than five (5) business days after a final decision is rendered under MAG's protest procedure. In instances where the protestor alleges that MAG failed to make a final determination on the protest, the protestor shall file a protest with the federal grant awarding agency not later than five (5) business days after the protestor knew or should have known of MAG's failure to render a final determination on the protest.

MAG shall not award a contract for five (5) business days following its decision on a procurement protest except if the Executive Director makes a determination concerning one of the following:

- The items to be procured are urgently needed;
- Delivery or performance will be unreasonably delayed by the failure to make an award promptly; or
- The failure to make an award will otherwise cause undue harm to MAG or to the federal government.

If the award is made, the Executive Director's determination shall be documented in writing and retained in the procurement file, and prompt written notification given to the protestor and, as appropriate, to other interested parties of the determination to proceed with an award.

### **9.2 Submission of protest to a federal grant awarding agency**

Protests should be filed with the appropriate regional office of the federal grant awarding agency and with a concurrent copy to MAG (addressed as provided in section 4), according to the applicable federal guidelines. The protest should include at a minimum the following:

- The name and address of the protestor;
- The name of MAG, the project number or name, and the number of the solicitation;
- A statement of the grounds for the protest and any supporting documentation; and
- A copy of the local protest filed with MAG and a copy of MAG's decision, if any.