

Attachment A

WACCAMAW REGIONAL COUNCIL OF GOVERNMENTS APPEAL AND PROTEST PROCEDURE

- 1.** The following procedures are for the purpose of addressing pre-award protest matters related to solicitation or award of contracts by Waccamaw Regional Council of Governments. The Waccamaw Regional Council of Governments is the responsible party for resolving all matters related to its contracts. These matters include pre-award issues, which may be raised concerning a solicitation or a specific award of a contract.
- 2.** Any protest related to solicitation or award of a contract must be filed with the Waccamaw Regional Council of Governments within ten (10) calendar days of the action by the Waccamaw Regional Council of Governments. Submission of a written protest document must be received not later than 5:00 P.M. (Eastern Time) of the tenth (10th) calendar day following the action taken by the Waccamaw Regional Council of Governments. Protests must be filed in writing and be received by Ayla Hemeon, Workforce Development Director, ahemeon@wrcog.org. Untimely protests will not be considered.
- 3.** In order to file a protest, a party must be aggrieved and must be an organization or individual with a specific interest related to the procurement. Only protests from organizations that can demonstrate that they are aggrieved will be considered. A party is not aggrieved by an error in solicitation or award of a contract unless the party could have potentially received the award but for the error.

The Waccamaw Regional Council of Governments will not consider protests from individuals or organizations who do not have such standing nor from subcontractors of parties with which contracts have been placed.

The signature of a party on a protest document constitutes a certification by the signer that the signer has read the document and to the best of their knowledge, information, and belief and, after reasonable inquiry, the protest is well grounded in fact and is warranted by existing law or by a good faith argument, and that it is not submitted for any improper purpose such as to harass, to limit competition, or to cause unnecessary delay or needless increase in the cost of the procurement or the cause of action.

- 4.** The statements in this policy concerning standing do not exclude the participation in the process by an organization, which is the apparent successful Proposer. Such party may participate, to the extent that meetings take place between the Waccamaw Regional Council of Governments and the protestor. However, since the protest procedure primarily will involve the review of the documentary submissions, it is not guaranteed that such an interested party will be specifically involved in the procedure. Interested parties may submit information on the record to support their contention that the procurement was properly carried out and the contract award is valid.

5. Protests must be in writing and must state or include the following: that the document constitutes a protest; that general inquiries and other characterizations will not be treated as protest documents; that notice of the specific issues that the protestor believes must be considered; and that a specific remedy, stated therein, is requested.

Additional information in the form of documentary evidence may be submitted as part of the submission. However, all information must be included by the deadline for submission of protests. No additional opportunity to embellish or otherwise expand the information to be reviewed will be accepted.

6. Upon receipt of the protest documents, the RFP Committee and the appropriate officials of the Waccamaw Regional Council of Governments (which may include staff and/or board members) will expeditiously review the documents. No hearing will be granted unless, in the view of the Waccamaw Regional Council of Governments, such hearing would substantially clarify the circumstances surrounding the protest. If a hearing is granted, it will be conducted at the offices of the Waccamaw Regional Council of Governments and a taped record will be made. The protester may be represented by counsel, but the responsible party of the protesting organization (the person signing the protest) must be present at all times at such meeting.
7. Upon receipt of a qualified protest, the Waccamaw Regional Council of Governments will engage in an administrative stay with respect to all procurement activity and contract implementation affected by the protested procurement. Accordingly, if a contract award has not occurred, the Waccamaw Regional Council of Governments and the Waccamaw Workforce Development Board will not proceed with the award until a decision concerning the protest has been reached. If a contract has been placed, the Waccamaw Regional Council of Governments may instruct the apparent successful contractor to suspend performance, pending the issuance of a decision in the matter.
8. The remedies developed in response to a protest will be at the discretion of the Waccamaw Regional Council of Governments in coordination with the Waccamaw Workforce Development Board. It should be recognized that the placement of contracts by the Waccamaw Regional Council of Governments is generally for the provision of designated services and disruption of the process has the potential for placing at risk vulnerable members of the population living within the Waccamaw region. Accordingly, cancellation of contracts and re-procurement will only be considered in extreme circumstances.
9. Decisions of the Waccamaw Regional Council of Governments will be issued in writing within thirty (30) calendar days of the receipt of a protest. In accordance with applicable Federal and State regulations affecting the administration of programs administered by the Waccamaw Regional Council of Governments, the decision of the Waccamaw Regional Council of Governments is final.

- 10.** The cost of a protest will be borne solely by the protester. No compensation will be paid to the protesting organization or to any legal representative thereof.

- 11.** The information submitted as part of a protest will be considered subject to the same rules for public access as are applicable to the records of the Waccamaw Regional Council of Governments and the Waccamaw Workforce Development Board. Accordingly, protest documents will be considered to be part of grant records accessible by authorized representatives of Federal and State agencies and auditors acting on behalf of the agencies, the Inspector General, and the Comptroller General of the United States. Such records are not by their nature accessible to members of the general public and the press unless other laws or regulations specifically apply.