

INDIAN AFFAIRS MANUAL

1.1 Purpose. This policy establishes the policy and procedures for reporting a protest filed against Indian Affairs (IA) to the Head of the Contracting Activity (HCA) and Bureau Procurement Executive (BPE). The HCA and BPE must be informed of all protest actions to determine the impact on IA operations and allow for a unified course of action.

1.2 Scope. This policy applies to all IA headquarters, field, and program staff under the authority of the Assistant Secretary - Indian Affairs (AS-IA), including the Bureau of Indian Affairs (BIA) and the Bureau of Indian Education (BIE).

1.3 Policy. It is IA's policy to report all protests filed against it in accordance with the procedures in section 1.7 of this document before an official response is prepared.

1.4 Authority.

A. Statutes and Regulations.

- 1) 48 CFR 14, Department of the Interior (Federal Acquisition Regulations (FAR) System)
- 2) 48 CFR Subpart 33.1, Protests

1.5 Responsibilities.

A. Office of the Chief Financial Officer (OCFO) oversees the Acquisition Management program for IA, and ensures the program is in compliance with all applicable laws, regulations, policies, and procedures.

B. CFO acts as the BPE for IA. The BPE is the assistant or associate administrative head of each bureau/office who has overall responsibility for managing contracting.

C. HCA is the senior acquisition subject matter expert in the contracting activity and is responsible for the overall management of IA's contracting activity, including establishing acquisition policy and guidance; ensuring IA policy and guidance is distributed to acquisition personnel; and providing oversight of the contracting activity.

D. Chief of the Contracting Office (CCO) is designated by the HCA and is the individual with supervisory oversight of a contracting office. The Director, Division of Acquisition Management, OCFO serves as the CCO for the AS-IA offices and BIA. The Chief, Division of Acquisition Management, BIE serves as the CCO for the BIE. The CCO is responsible for providing oversight of IA's Contracting Officers and Contract Specialists (including regional Contract Specialists) and ensuring that acquisition personnel adhere to IA policies.

INDIAN AFFAIRS MANUAL

- E. **Contracting Officer (CO)** is the individual with the authority to enter into, administer, or terminate contracts. The CO is responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships.
- F. **Contract Specialist (CS)** monitors and administers contracts, supports contracting leadership, and is responsible for adherence and application of acquisition policy.
- G. **Contracting Officers** are responsible for reporting all protests filed against the IA organization as described in this policy. IA currently has 14 designated contracting offices that are responsible for acquisitions for their assigned bureau, region, or office.

1.6 Definitions. Additional definitions can be found in the FAR.

- A. **Contract** means a mutually binding legal relationship obligating the seller to furnish supplies or services (including construction) and the buyer to pay for them (FAR 2.101). It includes all types of commitments that obligate the Federal Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301.
- B. **Interested Party** for the purpose of filing a protest means an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract (FAR 33.101).
- C. **Protest** means a written objection by an interested party to any of the following (FAR 33.101):
 - 1) a solicitation or other request by a federal agency to obtain offers for a contract with the intent to procure property or services;
 - 2) the cancellation of the solicitation or other request;
 - 3) an award or proposed award of the contract; or
 - 4) a termination or cancellation of an award of a contract when the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.

INDIAN AFFAIRS MANUAL

Part 22
Chapter 9

Acquisition Management
Protest Reporting

Page 3

1.7 Notification and Reporting Procedures. Additional guidance and specific procedural information can be found in the FAR Subpart 33.1 – Protests.

- A.** Protests must be in writing in order to be considered, and should be addressed directly to the CO or other official designated to receive protests. Upon receipt of the protest, the CO must notify the CCO of the protest within one business day.
- B.** Within two business days after receipt of the protest, the CCO must provide notification to the HCA through e-mail (electronic mail) of receipt of the protest. The CCO must provide the following information with the notification:
 - 1) a copy of the written protest; and
 - 2) the circumstances of the protest, including issues that may negatively impact or affect daily operations, halt significant operations, have bureau-wide implications, and/or any other significant issues.
- C.** The HCA will review the protest and all relevant documents and information, then provide guidance to the CO on how to proceed with protest resolution.
- D.** The HCA will also notify the BPE of the protest and keep the BPE informed as IA proceeds through the resolution process.

Approval

JASON FREIHAGE Digitally signed by JASON FREIHAGE
Date: 2021.06.11 08:46:39 -04'00'

Jason Freihage
Deputy Assistant Secretary – Management (DAS-M)

Date