



Protest Procedure

Purpose The Protest Procedure allows an actual or prospective proposer, bidder, offeror, or contractor (“Interested Party”) who is aggrieved in connection with a solicitation, evaluation, or award of a contract, an opportunity to state its dispute, pursuant to a certain protest procedure (“Protest Procedure”).

Because DART’s response to a protest establishes a precedent, it is important that DART’s responses to protests be consistent and take into consideration the best interests of DART on a long-term basis.

Notice of Protest Procedure Policy Each solicitation above the small purchase threshold shall contain DART’s Protest Policy Procedures. DART’s Protest Policy Procedures shall also be listed on its website.

1. Interested Party submits protest:
 - a. Protests must be submitted no than five (5) business days after the allegedly aggrieved person or party is notified of contract award.
 - b. Protest must be in writing and shall contain the following:
 - Procurement title and/or number under which the protest is made
 - Name, address, phone number, and email address of the allegedly aggrieved party
 - A detailed description of the specific grounds for the protest and all supporting documentation
 - The specific ruling or relief requested
 - c. The written protest shall be addressed to DART Senior Director of Finance & Compliance, Des Moines Area Regional Transit Authority, 1100 DART Way, Des Moines, IA 50309.
2. Upon receipt of a timely written protest, the Senior Director of Finance & Compliance:
 - a. Notifies parties involved in procurement, and any other DART personnel or others necessary to determine the validity of the protest, of the protest. These notices may include copies of the protest submittal, or portions thereof.

Note: Senior Director of Finance & Compliance must redact from any submission information which has been identified as proprietary, and which, in his/her judgment, is protected from disclosure under Iowa Code Chapter 22, Examination of Public Records (Open Records), prior to furnishing such submission to any other party, unless the person furnishing the information consents, in writing, to distribution of the information to other interested parties.

- b. May request additional written information from the protestor or other parties, and/or hold an informal or formal hearing, as necessary to determine the validity of the protest. If a formal hearing is held, testimony shall be given under oath and a transcript or electronic recording of the proceeding shall be made; the transcript or recording shall be provided to the protestor and made part of the protest record.
- c. Must consult DART legal counsel prior to issuing a protest decision.
- d. Establishes a separate file (which shall constitute a separate portion of the overall procurement file) containing the complete record of the protest. The file must include reasonable and adequate documentation of the protest and outcome of the protest and be proportional to the size and complexity of the protest. The protest file should include at least the following:
 - The protest, including supporting documentation
 - Record of determination of protest timeliness
 - Record of internal distribution of protest
 - Record of internal responses to protest
 - Record of legal review, if applicable
 - Determination and findings, including supporting documentation
 - Protester response / appeal

- Result of appeal
 - Notice of cancellation of solicitation, if applicable
3. Senior Director of Finance & Compliance writes and provides to protester a protest decision within ten (10) business days of receipt of the protest. Senior Director of Finance & Compliance may extend the response period if additional time is required to gather and evaluate information necessary for the decision or for other good cause).
- a. The protest decision document shall contain four (5) parts:
 - SUMMARY – Describes briefly the protesting party, the solicitation involved, the issue(s) raised, and the decision.
 - BACKGROUND – Describes in more detail the history of the solicitation and the procurement events leading to the protest, the date the protest was received, and the process by which it was evaluated
 - DISCUSSION – Identifies the issue or issues raised by the protestor, and the factors considered in reaching a decision, and the rationale for the decision.
 - DETERMINATION – States the decision and any remedy or subsequent action, (e.g., cancellation of the procurement) resulting from the protest
 - APPEAL OPTION – Informs allegedly aggrieved person of his/her right to appeal the decision to the DART CEO.
 - b. The decision made by the Senior Director of Finance & Compliance shall be final and conclusive unless appealed by the interested party in writing to the DART CEO within five (5) business days of receipt. The DART CEO will consider the appeal and promptly issue a written decision, which shall be the final and conclusive, except for such remedies as state or federal law or regulation may provide.
4. Interested party may commence litigation only after exhausting all DART administrative remedies. Failure to do so constitutes an absolute waiver of the protestor's right, if any, to commence litigation. After the exhaustion of DART's administrative remedies, the protestor shall have ten (10) calendar days to commence litigation. Failure to commence litigation within this limitation shall constitute an absolute waiver of the protestor's right. Failure to comply with these protests and appeal requirements will render a protest or an appeal untimely or inadequate and may result in its rejection by DART.