

**WAC 468-600-365 Protests of rejection of proposal/award of contract to competitor in competing proposals context.** (1) At least fourteen calendar days prior to the final selection of the successful proposer in any competitive proposal selection process, the department will give, electronically or otherwise, written notice to all participating proposers of the commission's apparent selection of the successful proposer. A proposer who would be adversely affected by the selection announced in the notice may, within fourteen calendar days after the date of the department's notice, submit to the department a written protest of the selection of the apparent successful proposer.

(2) For purposes of this rule, a protesting proposer is adversely affected by a selection only if the proposer has submitted a responsive competing proposal and is next-in-line for selection. In other words, the protesting proposer must demonstrate that all higher-scoring proposers are ineligible for selection because either:

(a) The higher-scoring proposals were not responsive to the requirements stated in the department's solicitation documents; or

(b) The department committed a substantial violation of a provision in the department's notice requesting competitive negotiation, in these rules, or in chapter 47.29 RCW, or otherwise abused its discretion, in evaluating the revised proposals.

(3) A proposer's written protest must state facts and argument that demonstrate how the selection process was flawed or how the commission's selection of the apparent successful proposer constituted an abuse of the commission's discretion. If the commission receives no written protest concerning the proposed selection listing within the fourteen-day period, then the selection of the successful proposer automatically shall become effective on the fifteenth calendar day after the department first transmitted or otherwise delivered its written notice of the apparent successful proposer.

(4) In response to a proposer's timely filed protest that complies with this rule, the commission will issue a written decision that resolves the issues raised in the protest. In considering a timely protest, the commission may request further information from the protesting proposer and from the apparent successful proposer identified in the department's notice issued under subsection (1) of this section. The commission will make its written determination available, by mail or by electronic means, to the protesting proposer and to the apparent successful proposer identified in the department's notice issued under subsection (1) of this section.

[Statutory Authority: RCW 47.29.030. WSR 07-04-095, § 468-600-365, filed 2/6/07, effective 3/9/07.]