

Subpart B—Protests**§ 17.11 Matters not subject to protest.**

The following matters may not be protested before the Office of Dispute Resolution for Acquisition:

- (a) FAA purchases from or through, state, local, and tribal governments and public authorities;
- (b) FAA purchases from or through other federal agencies;
- (c) Grants;
- (d) Cooperative agreements;
- (e) Other transactions which do not fall into the category of procurement contracts subject to the AMS.

§ 17.13 Dispute resolution process for protests.

(a) Protests concerning FAA SIRs or contract awards shall be resolved pursuant to this part.

(b) The offeror initially should attempt to resolve any issues concerning potential protests with the CO. The CO, in coordination with FAA legal counsel, will make reasonable efforts to answer questions promptly and completely, and, where possible, to resolve concerns or controversies.

(c) Offerors or prospective offerors shall file a protest with the Office of Dispute Resolution for Acquisition in accordance with § 17.15. The protest time limitations set forth in § 17.15 will not be extended by attempts to resolve a potential protest with the CO. Other than the time limitations specified in § 17.15 for the filing of protests, the Office of Dispute Resolution for Acquisition retains the discretion to modify any time constraints imposed in connection with protests.

(d) In accordance with § 17.17, the Office of Dispute Resolution for Acquisition shall convene a status conference for the protest. Under the procedures set forth in that section, the parties generally will either decide to utilize Alternative Dispute Resolution (ADR) techniques to resolve the protest, pursuant to subpart D of this part, or they will proceed under the Default Adjudicative Process set forth in subpart E of this part. However, as provided in § 17.31(c), informal ADR techniques may be utilized simultaneously with ongoing adjudication.

(e) The Office of Dispute Resolution for Acquisition Director shall designate Dispute Resolution Officers (DROs) or Special Masters for protests.

(f) Multiple protests concerning the same SIR, solicitation, or contract award may be consolidated at the discretion of the Office of Dispute Resolution for Acquisition, and assigned to a single DRO or Special Master for adjudication.

(g) Procurement activities, and, where applicable, contractor performance pending resolution of a protest shall continue during the pendency of a protest, unless there is a compelling reason to suspend or delay all or part of the procurement activities. Pursuant to §§ 17.15(d) and 17.17(b), the Office of Dispute Resolution for Acquisition may recommend suspension of award or delay of contract performance, in whole or in part, for a compelling reason. A decision to suspend or delay procurement activities or contractor performance would be made in writing by the FAA Administrator or the Administrator's delegee.

§ 17.15 Filing a protest.

(a) Only an interested party may file a protest, and shall initiate a protest by filing a written protest with the Office of Dispute Resolution for Acquisition within the times set forth below, or the protest shall be dismissed as untimely:

(1) Protests based upon alleged improprieties in a solicitation or a SIR that are apparent prior to bid opening or the time set for receipt of initial proposals shall be filed prior to bid opening or the time set for the receipt of initial proposals.

(2) In procurements where proposals are requested, alleged improprieties that do not exist in the initial solicitation, but which are subsequently incorporated into the solicitation, must be protested not later than the next closing time for receipt of proposals following the incorporation;

(3) For protests other than those related to alleged solicitation improprieties, the protest must be filed on the later of the following two dates:

- (i) Not later than seven (7) business days after the date the protester knew