



Procurement Dispute and Protest

I. Policy

It is the policy of Thriving Mind South Florida (Thriving Mind) that all disputes and protests are handled in an open, fair and transparent manner. Nothing in this or other Thriving Mind policies shall be construed to mean that Thriving Mind is an agency or entity subject to Chapter 120, Florida Statutes.

II. Purpose

The purpose of this policy is to outline the procedures to be used to settle all disputes and protests.

Procedure

III. Issues Causing Protest

Any person, vendor, Network Provider (collectively the Protestor) who has been adversely affected by a decision or intended decision concerning a solicitation or a notice of contract award may file a written notice of protest with the contact person listed in the solicitation document within 72 hours after the posting of the solicitation or of the notice of Thriving Mind's decision or intended decision.

IV. Filing the Protest

Any person who is adversely affected by the terms, conditions and specifications contained in a solicitation, including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract shall file a notice of protest in writing within 72 hours after the posting of the notice of solicitation or decision or intended decision. When filing the protest the following requirements must be adhered to:

1. In the computation of the 72 hour time frame for filing of a protest, Saturday's, Sunday's and state holidays are excluded. The Procurement Manager must ensure that the date and time of posting are documented in the Procurement File. (Posting on a Monday or Tuesday eliminates the need for a weekend exclusion.)
2. A formal protest must be filed with the contact person listed in the solicitation. The formal protest must be:



- (1) In writing; and,
- (2) Filed within ten (10) days after filing of the notice of intent to protest.
 - (a) No time will be added to the above time limits for mail service.
 - (b) The 10 day period includes Saturdays, Sundays, and state holidays.
 - (c) If the last day of the 10 day period is a Saturday, Sunday, or state holiday the period shall run until the end of the next day which is neither a Saturday, Sunday, nor state holiday.
3. Presented with the facts and law upon which the protest is based.
4. Accompanied by a bond payable to Thriving Mind and deposited in an escrow account.
 - (a) In lieu of a bond, a cashier's check, official bank check, or money order in the amount of the bond may be submitted to the contact person.
 - (b) Failure to file the proper bond at the time of filing the formal protest will result in a denial of the protest.

Upon receipt of a timely submitted formal written protest, Thriving Mind may, but is not required to stop the solicitation or contract award process until the subject of the protest is resolved by final agency action.

V. Posting Bond for Protest Filed

Any person who files an action protesting a decision or intended decision pertaining to contracts administered by Thriving Mind on behalf of the department must comply with the following requirements:

1. When protesting a decision or intended decision the protestor must post a bond equal to one percent (1%) of Thriving Mind's estimated contract amount. The estimated contract amount shall be based upon the contract price submitted by the protestor. If no contract price was submitted, Thriving Mind shall estimate the contract amount based on factors including, but not limited to, the following:
 - (1) The price of previous or existing contracts for similar or contractual services.
 - (2) The amount allocated by the Department for the services to be provided.
 - (3) The fair market value of similar contractual services.
2. The bond is payable to Thriving Mind at the time of the filing of the formal written protest. Failure to file the bond at the time of filing of the formal written protest will result in a denial of the protest.
3. Thriving Mind shall provide the procurement amount to the protestor within 72 hours after the notice of protest has been filed (excluding Saturday's, Sunday's and state holiday's). The procurement amount is not subject to protest.
4. The bond shall be conditioned upon payment of all costs and charges that are adjudged against the protestor in the administrative hearing in which action is brought, an in any subsequent appellate court proceeding.



VI. Submissions and Burden of Proof

1. In a protest to an Invitation to Negotiate procurement, no submissions made after Thriving Mind announces its intent to award a contract, reject all replies, or withdraw the solicitation which amend or supplement the reply shall be considered.
2. In a competitive procurement protest, the Thriving Mind shall provide for a meeting with the Protestor to discuss the protest and receive information that the Protestor wants the Thriving Mind to consider. Such a meeting shall not be a hearing. There shall be no testimony or the calling or cross examination of witnesses.
3. Thriving Mind shall make a recommendation regarding the protest to the Thriving Mind President and CEO. The Thriving Mind President and CEO may request additional information. The Thriving Mind President and CEO in conjunction with Executive Committee of the Board shall issue a final decision

VII. Official Hours of Operation for Submission of Protest and/or a Petition and Bond

The official hours of operation for receipt of an intent to protest and/or a petition and bond are 8:30 AM to 5:00 PM Eastern Standard Time. Upon receipt of the formal written notice of protest, the contact person must secure the bond until resolution of the protest.