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OSD Appeal Procedure for Human and Social Service Procurements

Pursuant to 801 CMR 21.06(15), the Operational Services Division (OSD) issues the following policies and procedures for appeals regarding departmental procurements of Human and Social Services:

Debriefing: Non-successful bidders may request a debriefing from the department that issued the RFR. Department debriefing procedures must be included in the RFR. Non-successful POS bidders aggrieved by the decision of a department must participate in a debriefing as a prerequisite to an administrative appeal.

Administrative Appeals to Departments: Non-successful bidders who participate in the debriefing process and remain aggrieved with the decision of the department may appeal that decision to the department head. Department appeal procedures must be included in the RFR.

Administrative Appeals to OSD: Non-successful bidders who participate in the department appeal process and remain aggrieved by the selection decision of the department may appeal the department's decision to the Operational Services Division. The basis for an appeal to OSD is limited to the following grounds:

1. The competitive procurement conducted by the department failed to comply with applicable regulations and guidelines. These would be limited to the requirements of 801 CMR 21.00 or any successor regulations, the policies in the [OSD Conducting Best Value Procurement Handbook](#), subsequent policies and procedures issued by OSD, and the specifications of the RFR; or
2. There was a fundamental unfairness in the procurement process. OSD will presume that departments conducted a fair procurement absent documentation to the contrary. Consequently, a high burden of proof rests with the bidder. Bidder should take care to provide sufficient and specific evidence in support of its claim.

Requests for an appeal must be sent to the attention of the Operational Services Division; Legal, Policy and Compliance Office, Room 1608, One Ashburton Place, Boston, MA 02108, and be received within fourteen (14) calendar days of the postmark of the notice of the department head's decision on the appeal.

Appeal requests must specify in sufficient detail the basis for the appeal. Sufficient detail requires a description of the published policy or procedure which was applied and forms the basis for the appeal and presentation of all information that supports the claim under paragraphs 1 or 2 above. OSD reserves the right to reject appeal requests based on grounds other than those stated above or those submitted without sufficient detail on the basis for the appeal.

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Hearings will be held and scheduled at OSD's discretion. Bidders are not entitled to a hearing prior to decision. OSD will review the materials submitted by the bidder and the department and determine whether a hearing is required. Parties will be given twenty-one (21) calendar days' notice of a hearing.

The decision of the Operational Services Division shall be rendered, in writing, setting forth the grounds for the decision within sixty (60) calendar days of receipt of the appeal request. Pending appeals to the Operational Services Division shall not prohibit the department from proceeding with executing contracts.

The above information regarding Administrative Appeals to OSD must be included in the RFR.

Contact OSDlegal@mass.gov with questions.