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## **RS 39:1671**

PART VI. LEGAL AND CONTRACTUAL REMEDIES  
SUBPART A. PRE-LITIGATION RESOLUTION  
OF CONTROVERSIES

§1671. Authority to resolve protested solicitations and awards

A. Right to protest. Any person who is aggrieved in connection with the solicitation or award of a contract shall protest to the chief procurement officer. Protests with respect to a solicitation shall be submitted in writing at least two days prior to the opening of bids on all matters except housing of state agencies, their personnel, operations, equipment, or activities pursuant to R.S. 39:1643 for which such protest shall be submitted at least ten days prior to the opening of bids. Protests with respect to the award of a contract shall be submitted in writing within fourteen days after contract award.

B. Authority to resolve protests. The chief procurement officer or his designee shall have authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest of an aggrieved person concerning the solicitation or award of a contract. This authority shall be exercised in accordance with regulations.

C. Decision. If the protest is not resolved by mutual agreement, the chief procurement officer or his designee shall, within fourteen days, issue a decision in writing. The decision shall:

- (1) State the reasons for the action taken; and
- (2) Inform the protestant of its right to administrative and judicial review as provided in this Part.

D. Notice of decision. A copy of the decision under Subsection C of this Section shall be mailed or otherwise furnished immediately to the protestant and any other party intervening.

E. Finality of decision. A decision under Subsection C of this Section shall be final and conclusive unless:

- (1) The decision is fraudulent; or
- (2) The person adversely affected by the decision has timely appealed administratively to the Commissioner in accordance with R.S. 39:1683.

F. Stay of procurements during protests. In the event of a timely protest under Subsection A of this Section, the state shall not proceed further with the solicitation or with the awarding of the contract unless the chief procurement officer makes a written determination that the awarding of the contract is necessary without delay to protect the substantial interests of the state. Upon such determination by the chief procurement officer, no court shall enjoin progress under the award except after notice and hearing.

G. Award of costs to protestants. In addition to any other relief, when the protest is administratively or judicially sustained and the protesting bidder or offeror should have been awarded the contract but is not, the protesting bidder or offeror shall be entitled to the reasonable costs incurred in connection with the solicitation, including bid preparation costs other than attorney's fees, provided that any administrative determination of such costs shall be subject to the written concurrence of the attorney general.

Added by Acts 1979, No. 715, §1, eff. July 1, 1980. Amended by Acts 1984, No. 344, §1; Acts 1985, No. 52, §1; Acts 1988, No. 694, §1, eff. July 15, 1988.