

THE RETIREMENT SYSTEMS OF ALABAMA (RSA)

PROCEDURES FOR RESOLUTION OF CONTROVERSIES

In accordance with the Code of Alabama (1975), §41-4-160, the following Written Procedures for Resolution of Controversies shall be applicable to solicitations, awards, vendors, and contracts for The Retirement Systems of Alabama (RSA).

I. Procedures for Resolution of Protested Solicitations and Awards

Only a bona fide actual or prospective bidder or offeror who is aggrieved in connection with the solicitation or the award of a contract and who timely files a protest may protest a solicitation or award.

A protest is considered filed when received by the RSA Legal Department. The protest may be delivered: (1) by hand or overnight courier to: RSA Legal Department, 201 South Union Street, Montgomery, Alabama 36104; (2) by U.S. Mail to: RSA Legal Department, Post Office Box 302150, Montgomery, Alabama, 36130-2150; or (3) by email to: Contracts@rsa-al.gov.

All protests of solicitations must be filed within 5 calendar days from the date of issuance of the solicitation (or within 5 calendar days of the issuance of an amendment to solicitation if the amendment is at issue). All protests of intended awards or awards of contracts must be filed within 5 calendar days of the date of award or notification of award, whichever is earlier.

Any matter that could have been raised as a protest to a solicitation may not be raised as a protest to an award or intended award of contract. Protests not filed within the deadlines listed above will not be considered by RSA.

Protests must be in writing and must set forth the grounds for protest and relief requested with enough particularity to give notice of the issues to be decided. In addition, protests must include the name and address of the protestor, an e-mail address for the protestor's representative, clear identification of the procurement or contract award being protested and supporting evidence and documentation sufficient to substantiate the claim.

RSA shall use best efforts to respond to any protest within 5 business days of receipt. The RSA Legal Department and any protestor shall make a good faith effort to resolve the protest by mutual agreement. In the event the RSA Legal Department and protestor are unable to resolve a protest within 14 calendar days from the response by RSA Legal to protestor, the Secretary-Treasurer of RSA shall commence an administrative review of the protest and issue a decision in writing within 14 days of the review. A decision of the Secretary-Treasurer of RSA shall be final and conclusive.

In the event a protest of a solicitation or award is timely filed, RSA shall not proceed further with the solicitation or award until the protest is mutually resolved or the Secretary-Treasurer has issued a decision; provided, however, that the solicitation or award may continue without delay in the event the continuation is deemed necessary to protect the best interests of RSA, as determined in writing by the RSA Legal Department.

If an action concerning a protest has commenced in court, then to the extent allowed by law, RSA may, in its sole discretion, either act on the protest or delay resolution pending resolution of court action.

II. Procedures for Suspensions and Debarments

It is RSA policy that RSA will not consider proposals, bids, quotes, or purchases from persons or entities suspended or debarred by the State of Alabama's Department of Finance Division of Procurement. RSA does not send additional notices or conduct additional hearings for entities on the State of Alabama's debarment and suspension lists. RSA reserves the right to independently debar or suspend, for reasons set forth in Ala. Code §41-4-162, RSA contractors or prospective contractors who are not on the State of Alabama debarment or suspension lists. In the event RSA is considering the implementation of a debarment or suspension of a contractor or prospective contractor who is not then suspended or debarred from proposing, bidding, or contracting with the State of Alabama, then the procedures set forth below shall be followed.

(a) Suspension. In the event probable cause exists for suspension of an RSA contractor or prospective contractor for reasons set forth in Ala. Code §41-4-162, RSA shall send a Notice of Suspension to such contractor or prospective contractor. The notice will include the reason for the suspension, that the recipient may request a hearing, and the procedures for any hearing if requested. All suspensions shall be effective immediately, and the period of any suspension shall be sufficient in length for RSA to complete an investigation into possible debarment but shall not exceed three months.

(b) Debarment. In the event probable cause exists for debarment of an RSA contractor or prospective contractor for reasons set forth in Ala. Code §41-4-162, RSA shall send a Notice of Debarment to such contractor or potential contractor. The Notice of Debarment shall be sent by certified mail or reputable overnight courier, with return receipt or receipt signature requested. The notice must state that debarment is being considered and provide the reason(s) therefor. The notice shall provide to the recipient an option for a hearing and shall set forth the procedures to be followed for any such hearing. Debarments may not exceed three years in length.

All suspension or debarment hearings shall be conducted by the Secretary-Treasurer for RSA, or his or her designee. All suspension and debarment decisions shall be made by the Secretary-Treasurer for RSA, taking into consideration all evidence presented by RSA and the contractor, as well as any recommendations from his or her designee following a hearing. The decision of RSA's Secretary-Treasurer shall be final and binding on all suspensions and debarments. Decisions from the Secretary-Treasurer shall be in writing and shall state the effective date and length of any suspension or debarment, the reasons for the action taken, and to what extent any affiliates of the suspended or debarred person or entity shall be affected.

III. Procedures for Resolution of Contract Disputes

It is the policy of RSA to try to resolve all controversies by mutual agreement without litigation when in the best interest of RSA and its members. In the event of any dispute between RSA and a contractor, senior officials of both parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail, and the dispute involves the payment of money, a contractor's sole remedy is the filing of a claim with the Board of Adjustment of the State of Alabama. For all other disputes arising under the terms of a contract which are not resolved by negotiation, the dispute will be resolved by the Secretary-Treasurer of the Retirement Systems of Alabama, whose decision will be final.

Before issuing a final decision, RSA's Secretary-Treasurer may review the facts pertinent to the controversy and secure any necessary assistance from legal, fiscal, and other advisors, whether such advisors are internal or third parties. RSA's Legal Department shall promptly furnish a copy of the Secretary-Treasurer's decision to the contractor. Should a party to a contract owe funds to the other party as a result of the Secretary-Treasurer's decision, the amount owing shall be paid without delay.