

UNCLASSIFIED



**U.S. Army Contracting Command**



# Debriefs

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## ***Purpose of Debriefing***

- The debriefing serves to assure offerors that the Government properly evaluated their proposals and made the award determination in accordance with the RFP.
- Timely and thorough debriefings increase competition, encourage offerors to continue to invest resources in the Government marketplace, and enhance the Government's relationship and credibility with industry.
- The debriefing also provides feedback to offerors to assist in improving future proposal submissions.



## *Preaward Debriefings (Timelines – FAR 15.505(a)&(b))*

- Offeror Requirements -
  - Submit written request to KO **within 3 days** after receipt of notice of exclusion
    - KO **not** required to provide debrief if request is not timely
    - KO **may** provide debrief if request is not timely
    - Offeror **may** request debriefing be delayed until after award
    - However, it **does not** extend Offeror's protest timeline



## ***Preaward Debriefings (Required Information – FAR 15.505(e))***

Pre-award debriefings shall include—

- (1) The agency's evaluation of significant elements in the offeror's proposal;
- (2) A summary of the rationale for eliminating the offeror from the competition; and
- (3) Reasonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed in the process of eliminating the offeror from the competition.



## ***Preaward Debriefings (Prohibited Information – FAR 15.505(f))***

Preaward debriefings shall not disclose—

- (1) The number of offerors;
- (2) The identity of other offerors;
- (3) The content of other offerors' proposals;
- (4) The ranking of other offerors;
- (5) The evaluation of other offerors; or
- (6) Any of the information prohibited in 15.506(e).



## ***Postaward Debriefings (Timelines – FAR 15.506(a))***

- Offeror Requirements -
  - Submit written request to KO within 3 days after receipt of notice of contract award
    - KO not required to provide debrief if request is not timely
    - KO may provide debrief if request is not timely



# ***Postaward Debriefings (Required Information – FAR 15.506(d))***

- The debriefing information **shall** include—
  - (1) The Government's evaluation of the significant weaknesses or deficiencies in the offeror's proposal, if applicable;
  - (2) The overall evaluated cost or price (including unit prices) and technical rating, if applicable, of the successful offeror and the debriefed offeror, and past performance information on the debriefed offeror;
  - (3) The overall ranking of all offerors, when any ranking was developed by the agency during the source selection;
  - (4) A summary of the rationale for award;
  - (5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror; and
  - (6) Reasonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed.



## ***Postaward Debriefings (Prohibited Information – FAR 15.506(e))***

- Point-by-point comparisons of the debriefed offeror's proposal with those of other offerors.
- Any information prohibited from disclosure by 24.202 or exempt from release under the Freedom of Information Act (5 U.S.C. 552) including—
  - (1) Trade secrets;
  - (2) Privileged or confidential manufacturing processes and techniques;
  - (3) Commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information; and
  - (4) The names of individuals providing reference information about an offeror's past performance.



# Debriefings (*Inappropriate Information*)

- The debriefing team should not disclose *documentation that was not presented to/considered by the SSA.*
- The debriefing team shall not discuss validity of requirements or prohibited information (see FAR 15.506(e)).
- The debriefing team shall not provide names of individuals providing reference information about an offeror's past performance.
- Names of individuals on the SST, not participating in the debriefing, should not be disclosed.
- The debriefing team **must not disclose any unit prices** which are not freely releasable under the Freedom of Information Act. Even though the FAR includes unit prices in the list of information to be provided in a debriefing, unit prices may not be releasable.





# BID PROTESTS

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# PROTEST VENUES

- Agency Level Protest
  - FAR 33.103
  
- Government Accountability Office (GAO) Protest
  - FAR 33.104
  
- Court of Federal Claims (COFC) Protest
  - FAR 33.105



## ■ ***Agency Level Protest (FAR 33.103)***

- Allows inexpensive, informal, procedurally simple and expeditious protest resolution within 35 calendar days
- May file protest directly with Contracting Officer (KO) or request independent review at a level above the KO (e.g. HQ AMC-Level Protest)

## ■ ***GAO Protest (FAR 33.104, 4 C.F.R. Part 21)***

- Reviews Agency's actions for violations of procurement statutes or regulations, arbitrary or capricious actions, or abuse of discretion within 100 calendar days
- ***Small Business Protest Issues Not For GAO Consideration***
  - *Small Business Size Protests*
    - Must be filed with the KO by the close of business of the 5<sup>th</sup> business day after bid opening or receipt of award notice identifying the apparently successful offeror
  - *Small Business Certificate of Competency Program\**
  - *Procurements Under Section 8(a) of the Small Business Act\**



# Jurisdiction Timelines\*

- **Defective Solicitation** - prior to the time set for submission of initial proposals
- **Solicitation Amendment** – the next due date for revised proposals
- **Required Debriefing** – not later than 10 calendar days after the required debriefing is held
- **Government Delay of Pre-Award Debriefings Until After Award** – protest time period extended
- **Contractor Delay of Pre-Award Debriefing Until After Award** – protest time period not extended
- **Any other matter** – not later than 10 calendar days after the basis of protest is known or should have been known
- **Protests Initially Filed With Agency** - within 10 calendar days of actual or constructive knowledge of initial adverse agency action

\* This is general information; each jurisdictional issue is fact dependent.



# Protest Considerations

- Communication with the Contracting Officer
- Protest Venue
- Performance Stays
  - Pre-Award – Agency shall not make award
  - Post-Award – Within 10 calendar days of contract award or within 5 calendar days after the date **offered** for the required post-award debriefing
    - Stay overrides must be approved by DASA(P) or AMC Command Counsel
- Legal Counsel
  - May assist in determining the strength/weakness of your protest
  - May view documents if admitted to a GAO protective order