

# What Are The Grounds For Bringing A Bid Protest?

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There are a multitude of reasons for bringing a bid protest. It is important to bear in mind that bid protests are highly factually driven and each matter must be looked at on a case by case basis. For example, grounds that may be “material” under one set of set of solicitation documents may not be under another. Some of the more common reasons for bringing a bid protest are listed below:

**Untimely Proposal.** Generally, solicitation documents will set forth a deadline when responses to a solicitation must be received. If a solicitation document states that a response is due at a certain time and the agency awards the contract to a bidder who turned in its documents after the deadline, grounds for a bid may protest exist.

**Missing Information.** Every bidder is required to turn in a complete response to a solicitation. Bidders must complete and sign every form and provide all required document such as letters of recommendations, proof of insurance (if required), etc. Missing information in response to a solicitation can be grounds for a protest.

**Flawed Evaluation.** A successful bid protest may result if an agency ignores its own stated procedures for evaluating proposals. If, for example, an agency states in its solicitation that an evaluation committee will review the proposals and instead evaluates the proposals in a different manner, the unsuccessful bidder may protest. Evaluations may also be flawed when the agency evaluates proposers based on criteria not listed in the solicitation, fails to evaluate portions of a proposal or fails to identify mistakes or flaws in the winning bidder’s proposal.

**Unreasonable Price Proposal.** In a solicitation where cost is an issue, a bidder may successfully protest where a winning bidder’s price proposal is so low or so different from other bidders that there is either an obvious error or an unrealistic number being proposed, or the pricing submitted does not conform to the solicitation requirements.

**Improper Discussions.** Many jurisdictions recognize a “cone of silence” or a period during which bidders are not allowed to hold discussions with agency staff or elected officials. A bidder may successfully protest an award if improper discussions took place between the winning bidder and agency personnel, or if a decision was made in violation of Florida’s Sunshine Law.

**Collusion.** Most jurisdictions do not allow bidders to collaborate on their proposals unless they are teaming together or are in a joint venture of some sort. Cooperation between bidders who are not submitting a proposal together is collusion and can be grounds for a bid protest.

**Small Business Issues.** In many cases, solicitations will contain small business requirements. Issues may sometimes arise as a result of the small business requirements. In some cases, a protest may be initiated to contest a winning bidder’s small business certification on various grounds such as minority status, control by third parties, size of the small business, or the personal net worth of the small business owner.

There are an endless number of reasons why a bid protest may be initiated. Whether you are a winning bidder who is the subject of a bid protest or you are an interested party who believes that the process was flawed, contact us. At Becker, we have experience representing parties involved in bid protests. We can intervene and help you defend a bid protest and keep a contract you’ve won or initiate a bid protest to win a contract you thought you lost.