

From: Adam Proffitt, Secretary of Administration
To: Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight
Date: June 24th, 2024
Re: Department of Administration Procurement Protest Procedure

Madame Chair and Members of the Committee,

Thank you for allowing the Department of Administration to submit testimony on the Procurement Protest Process.

The Vendor Protest process is an administrative procedure defined by the Office of Procurement and Contracts (OPC) Vendor Bid Protest Procedure policy. It is not subject to the Kansas Administrative Procedures Act (KAPA).

The Department of Administration does not comment on protests until a decision is made and posted to OPC's website.

Protests must be made in writing to the Director of Purchases within 30 calendar days after the date of Contract Award.

The Contracts with the 3 winning bidders were signed on May 7th. No untimely protests have been submitted.

A written protest must include:

1. the name and address of the protesting bidder,
2. an identification of the procurement by bid or contract number,
3. a statement of the specific reasons for the protest, and
4. supporting exhibits, evidence, or documents, unless they are not available within the filing time, in which case the expected availability date shall be indicated.

If a protest is filed before an award is made, no contract shall be awarded until the protest has been heard. That was not the case with KanCare. No protests were filed before May 14.

A Protest Decision will be made by the Director of Purchases as soon as possible after receiving all the relevant, requested information.

The decision of the Director of Purchases is considered the final agency action. There is no further "administrative" appeal process.

Any petition for judicial review should be served on the Director of Purchases on behalf of the Department of Administration.

As this is a legal matter, I am unable to answer specific questions about these particular protests, but will be happy to discuss the process broadly.