

## § 601.106

(3) Providing false or misleading information regarding financial condition, ability to perform, or other material matters, including any aspect of performance on a contract; and

(4) Engaging in other questionable or unprofessional conduct or business practices.

(c) *Notice.* If the Postal Service elects to decline to accept or consider proposals from a person or organization, the vice president, Supply Management, or his or her designee, will provide a written notice to the person or organization *by Certified Mail, return receipt requested*, explaining:

(1) The reasons for the decision;

(2) The effective date of the decision;

(3) The scope of the decision;

(4) The period of time the decision will be in effect, (a matter at the Postal Service's discretion consistent with the circumstances); and

(5) The supplier's right to contest the decision.

(d) *Contesting Decisions.* If a person or organization believes the decision not to accept or consider proposals is not merited, it may contest the matter in accordance with § 601.108. The Postal Service may reconsider the matter and, if warranted, rescind or modify the decision to decline to accept or consider proposals.

## § 601.106 [Reserved]

## § 601.107 Initial disagreement resolution.

(a) *Definitions.*

(1) *Days.* Calendar days; however, any time period will run until a day that is not a Saturday, Sunday, or legal holiday.

(2) *Disagreements.* All disputes, protests, claims, disagreements, or demands of whatsoever nature arising in connection with the acquisition of property and services within the scope of § 601.103 of this chapter, except those:

(i) That arise pursuant to a contract under the Contract Disputes Act under § 601.109;

(ii) That concern debarment, suspension, or ineligibility under § 601.113; or

(iii) That arise out of the nonrenewal of transportation contracts containing other provisions for the review of such decisions.

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(3) *Interested parties.* Actual or prospective offerors whose direct economic interests would be affected by the award of, or failure to award, the contract.

(4) *Lodge.* A disagreement is lodged on the date it is received by the contracting officer or the Supplier Disagreement Resolution Official, as appropriate.

(5) *SDR Official.* The Supplier Disagreement Resolution Official, a contracting officer designated by the Postal Service to perform the functions established under § 601.108.

(b) *Policy.* It is the policy of the Postal Service and in the interest of its suppliers to resolve disagreements by mutual agreement between the supplier and the responsible contracting officer. All disagreements must be lodged with the responsible contracting office in writing via facsimile, e-mail, hand delivery, or U.S. Mail. For disagreements that concern the award of a contract, the disagreement shall be lodged within 10 days of the date the supplier received notification of award or 10 days from the date the supplier received a debriefing, whichever is later. For disagreements that concern alleged improprieties in a solicitation, the contracting officer must receive the disagreement before the time set for the receipt of proposals, unless the disagreement concerns an alleged impropriety that does not exist in the initial solicitation but which is subsequently incorporated into the solicitation, in which event the contracting officer must receive the disagreement no later than the next closing time for the receipt of proposals following the incorporation. The resolution period shall last 10 days from the date when the disagreement is lodged with the contracting officer. During the supplier-contracting officer 10-day resolution period, the responsible contracting officer's management may help to resolve the disagreement. At the conclusion of the 10-day resolution period, the contracting officer must communicate, in writing, to the supplier his or her resolution of the disagreement.

(c) *Alternative dispute resolution.* Alternative dispute resolution (ADR) procedures may be used to resolve a disagreement. If the use of ADR is agreed

upon, the 10-day limitation is suspended. If agreement cannot be reached, the supplier has 10 days to lodge its disagreement with the SDR Official.

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**§ 601.108 SDR Official disagreement resolution.**

(a) *General.* If a disagreement under § 601.107 is not resolved within 10 days after it was lodged with the contracting officer, if the use of ADR fails to resolve it at any time, if the supplier is not satisfied with the contracting officer's resolution of the disagreement, or if the decision not to accept or consider proposals under § 601.105 is contested, the SDR Official is available to provide final resolution of the matter. The Postal Service desires to resolve all such matters quickly and inexpensively in keeping with the regulations in this part.

(b) *Scope and applicability.* This procedure is established as the sole and exclusive means to resolve disagreements under § 601.107 and contests of decisions under § 601.105. This procedure is intended to expeditiously resolve disagreements that are not resolved at the responsible contracting officer level; to reduce litigation expenses, inconvenience, and other costs for all parties; to facilitate successful business relationships with Postal Service suppliers, the supplier community, and other persons; and to develop further the basis for the Postal Service's purchasing decisions and the administrative records concerning those decisions. All disagreements under § 601.107 and contests of decisions under § 601.105 will be lodged with and resolved, with finality, by the SDR Official under and in accordance with the sole and exclusive procedure established in this section.

(c) *Lodging.* The disagreement under § 601.107 or contest of decision under § 601.105 must be lodged with the SDR Official in writing via facsimile, e-mail, hand delivery, or U.S. Mail. The disagreement under § 601.107 or contest of decision under § 601.105 must state the factual circumstances relating to it and the remedy sought. A disagreement under § 601.107 must also state the scope and outcome of the initial dis-

agreement resolution attempt with the contracting officer. The address of the SDR Official is: Room 4130 (Attn: SDR Official), United States Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, DC 20260-4130. e-mail Address: *SDROfficial@usps.gov*. Fax Number: (202) 268-0075.

(d) *Lodging timeframes.* Disagreements under § 601.107 or contests of decisions under § 601.105 must be lodged with the SDR Official within the following timeframes:

(1) Disagreements under § 601.107 not resolved with the contracting officer must be lodged with the SDR Official within 20 days after they were lodged with the contracting officer (unless ADR had been used to attempt to resolve them);

(2) Disagreements under § 601.107 for which ADR had been agreed to be used must be lodged with the SDR Official within 10 days after the supplier knew or was informed by the contracting officer or otherwise that the matter was not resolved;

(3) Where a supplier is dissatisfied with the contracting officer's resolution of a disagreement under § 601.107, the supplier must lodge the disagreement with the SDR Official within 10 days after the supplier first receives notification of the contracting officer's resolution; and

(4) Contests of decisions under § 601.105 to decline to accept or consider proposals must be lodged with the SDR Official within 10 days of the supplier's receipt of the written notice explaining the decision.

(5) The SDR Official may grant an extension of time to lodge a disagreement under § 601.107 or contest of decision under § 601.105 or to provide supporting information when warranted. Any request for an extension must set forth the reasons for the request, be made in writing, and be delivered to the SDR Official on or before the time to lodge a disagreement lapses.

(e) *Disagreement decision process.* The SDR Official will promptly provide a copy of a disagreement to the contracting officer, who will promptly notify other interested parties. The SDR Official will consider a disagreement and any response by other interested parties and appropriate Postal Service