

SECTION 4: *Appeals Process Procedures*

The following appeals process for Members is established by the Council pursuant to Rule 2.40.5.14:

1. Procurement after filing appeal:
 - a. In the event of filing of a timely appeal, the central nonprofit agency shall not proceed further with the procurement unless the council makes a written determination that the award of the contract is necessary to protect substantial interests of a state agency or a local public body. Such written determination should set forth the basis for the determination.
 - b. A procurement shall not be halted after a contract has been awarded because an appeal has been filed. After a contract has been awarded, the council may, at its sole discretion, halt a procurement in exceptional circumstances or for good cause shown.

2. Procedure:
 - a. Step 1. Informal Resolution: Disputes should be resolved informally and locally if possible. Early involvement of the council should facilitate a timely resolution. The council shall issue procedures for resolving issues without the need for formal appeal filing.
 - b. Step 2. Declaration of Appeal: The Appeal Resolution process is initiated by a Declaration of Appeal in writing to the chairperson of the council.
 - c. Step 3. Filing of Appeal: Appeal requests shall be submitted within fifteen (15) calendar days after declaration of appeal. Appeal requests shall be in writing and addressed to the chairperson of the council. The appeal request shall include:
 - i. the name and address of the requester/member;
 - ii. the procurement name, location, and any other identifying information, including the contract number if a contract is involved;
 - iii. a statement of the issue that is the basis for the appeal and the desired outcome;
 - iv. a statement of the grounds for appeal request including the position and opinion of the party with supporting data;
 - v. a chronology of steps taken to resolve the appeal;
 - vi. supporting exhibits, evidence or documents to substantiate any claim unless not available within the filing time in which case the expected availability date shall be indicated;

- vii. Specifically for price and price-related issues, provide the independent government estimate and any objective data available, and provide market research information if available in addition to details of cost elements that support the proposed price, and
 - viii. the ruling requested from the council.
- d. Upon the filing of a timely appeal, council shall give notice of the appeal to central nonprofit and its member/provider if one has been selected.
- e. No formal pleading is required to initiate an appeal, but appeal requests shall be concise, logically arranged, and direct.
- f. Hearings shall be held only when the council determines that substantial material factual issues are present that cannot be resolved satisfactorily through an examination of written documents in the record. Any party may request a hearing, but such requests shall be deemed denied unless specifically granted. Hearings, when held, shall be as informal as practicable under the circumstances, but the council has discretion in establishing the degree of formality for any particular hearing. In no event is the council required to adhere to formal rules of evidence or procedure.
- g. The council may take any action reasonably necessary to resolve an appeal. Such actions include, but are not limited to
- i. issuing a final written determination summarily dismissing the protest;
 - ii. obtaining information from the central nonprofit or government purchaser;
 - iii. requiring parties to produce for examination information or witnesses under their control;
 - iv. requiring parties to express their positions on any issues in the proceedings;
 - v. establishing procedural schedules;
 - vi. regulating the course of the proceedings and the conduct of any participants;
 - vii. receiving, ruling on, excluding or limiting evidence;
 - viii. taking official notice of any fact that is among the traditional matters of official or administrative notice;
 - ix. conducting hearings; or
 - x. taking any action reasonably necessary to compel discovery or control the conduct of parties or witnesses.
- h. Resolution: The council shall promptly issue a written determination relating to the protest. The determination shall:
- i. state the reasons for the action taken; and
 - ii. a copy of the written determination shall be sent as soon as practicable by certified mail, return receipt requested, to each of the parties.