
Rules of
Department of Mental Health
Division 25—Fiscal Management
Chapter 2—Purchase of Service Contracting

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Title 9—DEPARTMENT OF MENTAL HEALTH

Division 25—Fiscal Management Chapter 2—Purchase of Service Contracting

9 CSR 25-2.005 Definitions

PURPOSE: This rule defines the terms used in this chapter.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) The terms defined in section 630.005, RSMo are incorporated by reference for use in this chapter as though set out in this rule unless those terms have been redefined under section (2) as for purposes of this rule.

(2) Unless the context clearly requires otherwise, the following terms used in this chapter shall mean:

(A) Affiliated community service provider, an entity so designated by the Department of Mental Health—1) to provide, directly or by purchase from community providers, for clients of the Division of Mental Retardation and Developmental Disabilities a comprehensive array of services or for a comprehensive array of services for clients of the Division of Comprehensive Psychiatric Services under Chapter 632, RSMo or 2) to provide community support program services to clients referred by a Department of Mental Health facility. Affiliated community service providers are independent contractors providing an array of services for clients of the Divisions of Comprehensive Psychiatric Services or Mental Retardation and Developmental Disabilities;

(B) Award, the presentation by the department of a contractual agreement to an offeror selected after responding to a request for a proposal (RFP) as set out in this chapter;

(C) Community support program, an array of supportive services provided to assist clients of the department living in generic housing or an array of specialized services provided to enable a client of the department to live in community residential programs;

(D) Comparative evaluation, the process set out in this chapter where the department evaluates completed proposals from respon-

sive offerors to determine the best proposal(s) for the Department of Mental Health. Multiple contracts may be awarded in the best interest of the department;

(E) Comparative negotiation, the process set out in this chapter, where the department evaluates a completed proposal from a responsive offeror with other proposals or existing arrangements in an area to determine the most desirable aspects of proposals submitted. The department then informs the responsive offerors of the desirable aspects and uses them as the basis for negotiating an award to one (1) or more offerors;

(F) Comprehensive array of services, for the Division of Comprehensive Psychiatric Services, it is the capacity of an agency to provide services, including mental health evaluation and assessment services, individual and group therapies, day treatment, medical services, administrative coordination, case management, information and education services and general access to or provision of inpatient care on both a scheduled and twenty-four (24)-hour-a-day basis; for the Division of Mental Retardation and Developmental Disabilities, it is the capacity of an agency to provide services including, but not limited to, assessment services, counseling, respite care, recreation, habilitation, training, vocational rehabilitation, residential care, homemaker services, developmental day care, sheltered workshops, referral to appropriate services, placement and transportation;

(G) Contractual agreement, the document executed by a department official and the offeror selected as set out in this chapter to provide certain services to certain clients in a certain geographic area;

(H) Department, the Department of Mental Health and its Divisions of Comprehensive Psychiatric Services, Mental Retardation and Developmental Disabilities, Alcohol and Drug Abuse and the department's designated staff;

(I) Early intervention services, developmental services provided by qualified personnel to meet infant's or toddler's developmental needs in one (1) or more of the following areas: physical development, including vision and hearing; cognitive development; social or emotional development; social or emotional development or adaptive development. Early intervention services must be provided in conformity with an individualized family service plan (P.L. 102—119, Part H);

(J) Evaluation of proposal, the examination of proposals after the proposal closing time and date to determine whether an offeror is responsible and responsive to the criteria stated in the RFP;

(K) First Steps, an interagency program which provides coordinated, early intervention services and assistance for eligible children, birth to age three (0—3), who have delayed development or who have diagnosed conditions that are associated with development disabilities and their families. First Steps is the Missouri program in response to Part H of the Individuals With Disabilities Education Act Amendments of 1991 (P.L. 102—119);

(L) Fiscal year, July 1 of one (1) year to June 30 of the following year for the department;

(M) General provisions, standard clauses of a contractual agreement;

(N) Multiple award, contractual agreements awarded to more than one (1) offeror for comparable services at various prices if the award to a single provider would be impracticable to serve clients in a particular area;

(O) Noncompetitive negotiation, the process set out in this chapter where the Divisions of Comprehensive Psychiatric Services and Mental Retardation and Developmental Disabilities negotiate with eligible service providers. A contract(s) is awarded in accordance with the fiscal and programmatic interests of the department;

(P) Nonresponsive proposal, an offeror's proposal which does not conform to the mandatory or essential requirements of an RFP;

(Q) Offeror, a provider or potential provider submitting a proposal in response to an RFP;

(R) Preproposal conference, a meeting called by the department and held with prospective offerors after issuance of an RFP for explanation and clarification purposes;

(S) RFP, a request for a proposal developed by the department for solicitation of prospective offerors to provide certain services to clients according to certain criteria, terms and conditions specified by the department;

(T) Responsive offeror, an offeror whose proposal complies with the criteria, specifications and terms set out in an RFP;

(U) Service, any type of evaluation, transportation, prevention, care, treatment, habilitation or rehabilitation work for clients specified and purchased by the department from a provider as set out in this chapter;

(V) Solicitation, the process of notifying prospective offerors that the department seeks proposals to purchase certain services for clients in a certain area;

(W) Successful offeror, an offeror who receives an award after an evaluation of proposal;

(X) Unit price, the price of providing any service for a specific unit of measurement (for example, one (1) hour, one (1) mile);

(Y) Unsuccessful offeror, an offeror not selected by the department to receive an award for specified reasons; and

(Z) Weighted average unit price, the weighted price of designated categories of units of services proposed to be provided by an offeror in response to an RFP.

(3) Singular terms include the plural and vice versa, unless the context clearly indicates otherwise.

AUTHORITY: sections 34.100, 630.050 and 630.405, RSMo 1986. Original rule filed Oct. 16, 1986, effective July 13, 1987. Emergency amendment filed May 15, 1990, effective May 25, 1990, expired Sept. 21, 1990. Amended: Filed Aug. 1, 1990, effective Dec. 31, 1990. Emergency amendment filed July 7, 1992, effective July 17, 1992, expired Nov. 13, 1992. Amended: Filed July 7, 1992, effective Feb. 26, 1993.*

**Original authority: 34.100, RSMo 1945, amended 1983; 630.050, RSMo 1980; and 630.405, RSMo 1980.*

9 CSR 25-2.105 Purchasing Client Services

PURPOSE: This rule prescribes the procurement system for purchasing certain departmental services (other than in the department's community placement program) for departmental clients. As set out in sections 34.100 and 630.405, RSMo, the commissioner of administration shall have the power to delegate his/her authority to purchase services for clients from providers to the department. The delegation of authority requires the department to comply with the basic intent of public procurement procedures to purchase the services.

(1) As set out in sections 34.100 and 630.405, RSMo, the commissioner of administration has delegated his/her authority to the department to purchase services for department clients from providers directly rather than through the division of purchasing of the Office of Administration. The commissioner delegates the authority by letter to the department director on a year-to-year basis. The department shall make immediately available to any interested person upon application a copy of any letter of delegation of authority at a cost not to exceed the actual cost of reproduction from the central office of the department, P.O. Box 687, Jefferson City, MO 65102.

(2) The director may designate entities to be known as affiliated community service providers to provide psychiatric and developmental disabilities services as defined by Chapters 632 and 633, RSMo in a service area or region where no state-operated facility exists in that region to provide these services. In so designating entities, the director may take into account, but shall not be limited to, the following: the ability of the entity to provide, subcontract or develop the necessary array of services, the stability of the entity as indicated by its historical service provision, the community-based nature of the service, the ability of the entity to utilize funding to maximize division-identified services to the greatest number of clients with quality and effective service.

(3) The noncompetitive negotiation procedure shall be used when the department director designates an affiliated community service provider or when the service provider is providing early intervention services for children from birth through age four (0—4), including children eligible for First Steps.

(4) The department shall contract with designated affiliated community service providers after negotiating terms, for a period of one (1) year, with option for renewal at the department's discretion. Termination of the contract shall be for any cause defined in the contract or without cause upon sixty (60) days' notice.

(5) The department shall use comparative evaluation, comparative negotiation and non-competitive negotiation procedures as set out in this chapter to purchase services from private and public providers for its clients with funds appropriated to the department for this purpose as set out in section 630.405, RSMo.

(6) The department shall develop and issue a request for a proposal (RFP) as set out in this chapter to solicit and select the providers to provide services to department clients under duly executed contractual agreements.

(7) Providers shall meet applicable licensure, accreditation or certification, requirements under state and federal law. Providers shall also comply with other applicable department rules and state and federal laws.

(8) The department shall issue contractual agreements after awards are made to offerors for a term corresponding to a current or the new fiscal year subject to service need, appropriations and available funds as determined by the department.

(A) If so specified in the contractual agreement and RFP, the department, at its sole option, may offer to extend any contractual agreement for up to four (4) additional one (1)-year terms. In the fifth year of a contract, the department, at its sole option, may extend the contractual agreement up to five (5) additional one (1)-year terms.

(B) Any contractual agreement, extension or option for renewal is contingent upon annual renewal of a delegation of authority from the commissioner of administration.

(C) If the department exercises the option to extend the terms, conditions and provisions of the initial contractual agreement, with duly executed amendments, shall remain in effect and apply during subsequent contractual agreement terms except that unit prices may be adjusted by the department consistent with department policy subject to appropriations and availability of funds.

AUTHORITY: sections 34.100, 630.050 and 630.405, RSMo 2000. Original rule filed Oct. 16, 1986, effective July 13, 1987. Emergency amendment filed May 15, 1990, effective May 25, 1990, expired Sept. 21, 1990. Amended: Filed Aug. 1, 1990, effective Dec. 31, 1990. Emergency amendment filed July 7, 1992, effective July 17, 1992, expired Nov. 13, 1992. Amended: Filed July 7, 1992, effective Feb. 26, 1993. Amended: Filed Oct. 31, 2000, effective May 30, 2001.*

**Original authority: 34.100, RSMo 1945, amended 1983, 1995; 630.050, RSMo 1980, 1993, 1995; and 630.405, RSMo 1980, 1993, 1995.*

9 CSR 25-2.205 Request for Proposal Development

PURPOSE: This rule prescribes procedures for developing requests for proposals from providers to provide services to department clients.

(1) A request for a proposal (RFP) shall include at least the following:

(A) The procurement method to be used (comparative evaluation, comparative negotiation or noncompetitive negotiation);

(B) Requirements, instructions and information to offerors about the RFP submission including the proposal closing time and date for receipt of proposals and the address of the department office to which the proposals are to be delivered;

(C) The service descriptions and definitions determined by the divisions or department facilities involved, quantity of services requested, minimum qualifications of providers and their staff and any applicable

licensure, accreditation or certification requirements not included in the service description;

(D) Geographic area where the service must be provided and target population for the services;

(E) Any applicable unit price limitations;

(F) Contractual agreement, general provisions;

(G) The scope of work and any other contractual approach requirements to be met by the offeror;

(H) Method of payment by the department to the provider;

(I) Procedures for amending the contractual agreements once an award has been made;

(J) A department form for insertion of the unit price quotation and signature by the offeror in the proposal returned in response to the RFP;

(K) Notice of how the RFP is amended;

(L) Requirement of acknowledgement by the offeror of the receipt of any amendments issued by the department to the RFP;

(M) Factors to be considered when determining whether a prospective provider has met the standard of responsibility;

(N) Any special evaluation criteria or method of evaluation; and

(O) When necessary, the time, date and place of a preproposal conference.

(2) The department may incorporate documents by reference in the RFP if the department specifies where the documents can be obtained or reviewed.

AUTHORITY: sections 34.100, 630.050 and 630.405, RSMo 1986. Original rule filed Oct. 16, 1986, effective July 13, 1987. Emergency amendment filed July 7, 1992, effective July 17, 1992, expired Nov. 13, 1992. Amended: Filed July 7, 1992, effective Feb. 26, 1993.*

**Original authority: 34.100, RSMo 1945, amended 1983; 630.050, RSMo 1980; and 630.405, RSMo 1980.*

9 CSR 25-2.305 Solicitation Procedures

PURPOSE: This rule prescribes department procedures for soliciting offerors in response to requests for a proposal.

(1) The department shall specify in each request for a proposal (RFP) the proposal closing time, date and place to provide offerors a reasonable time to prepare their proposals.

(2) The department shall post notices of the availability of the RFPs in the purchase of service bureau in the department's central office. The department shall mail or otherwise distribute the RFPs or notices of the availability of the RFPs to all interested providers and recognized competitive bidders in a geographic area to secure comparative evaluation or comparative negotiation between more than one (1) offeror if possible (that is, in some areas only one (1) offeror can be found). Notices of availability shall indicate where, when and for how long the RFPs may be obtained and shall generally describe the services to be purchased.

(A) If a purchase involves the estimated expenditure of more than twenty-five thousand dollars (\$25,000), the department shall advertise the notice of availability of the RFP in two (2) newspapers of general circulation. It may also advertise in a newspaper of local circulation in the geographic area where the services are to be provided or in places as are most likely to reach prospective sources.

(B) If a purchase involves the estimated expenditure of twenty-five thousand dollars (\$25,000) or less, the department may distribute the RFPs without advertising.

(C) The department shall make a copy of each RFP available for public inspection at the office of its purchase of service bureau.

(3) The department may conduct a preproposal conference as it deems necessary to clarify any terms and conditions of an RFP, explain any criteria in the RFP or otherwise to respond to questions from prospective offerors who have received the RFPs. The department shall schedule the conference between the RFP issuance date and the proposal closing date, but as close to the original date of mailing as possible, to allow offerors time to consider any information presented in the preparation of their proposal. If the department decides to change the RFP as a result of a preproposal conference, the change shall not become official until the RFP is amended and communicated in writing. The department shall notify prospective offerors known to have received an RFP of any such amendments.

(4) The department shall plainly mark any RFP amendment as such and shall reference the portions of the RFP it amends. The department may issue amendments for any minor modification(s) of the RFP; however, the department shall rescind the RFP and reissue it for any major modification(s) as determined by the department. The offeror shall acknowledge receipt of any amendments issued in its proposal. The department shall

distribute amendments within a reasonable time so that the prospective offeror might consider them in preparing its proposal. If the department determines that the proposal closing time and date would not permit adequate preparation, the department shall extend the proposal closing time and date in the amendment and, if necessary, by telephone or other means of communication with confirmation in the amendment notice.

(5) Offerors may modify or withdraw proposals in writing in a notice to the department at the location designated in the RFP before the proposal closing time and date. The department shall keep any modification or withdrawal documentation in the RFP file.

(6) Any proposal received after the proposal closing time and date is nonresponsive and shall not be considered. No proposal may be withdrawn or modified after the proposal closing time and date. No late proposal, late modification(s) or late withdrawal will be considered unless received before contract award and the proposal, modification(s) or withdrawal would have been timely except for the action or inaction of the department.

(A) The department shall notify offerors submitting late proposals that they were not considered for award and shall return their proposals unopened.

(B) The department shall keep records of each late proposal, modification(s) or withdrawal in the RFP file.

(7) The department shall electrically time-stamp each proposal, modification(s) or withdrawal indicating the time and date received. The department shall store each proposal unopened in a secure place until the proposal closing time and date.

(8) The department shall open proposals and modifications publicly, in the presence of one (1) or more witnesses besides the responsible department staff at the proposal closing time, date and place designated in the RFP. The department shall read aloud the name of each offeror, the unit price for each service and other information as is deemed appropriate. The department shall record a proposal abstract at the time of proposal closing and the names and addresses of witnesses in attendance at the opening.

(9) The department shall keep any proposals timely received available for public inspection except to the extent the offeror designates any proprietary data to be confidential information as described in section 610.025, RSMo. The offeror shall specifically identify

and make the confidential information readily separable in the proposal. The department shall maintain confidential information separately to facilitate public inspection of the nonconfidential portion. The unit price of any service offered and the terms of payment shall be publicly available at the time of proposal opening regardless of any designation to the contrary that this information is confidential.

(10) The department may allow a correction or withdrawal of a proposal because of a mistake in an RFP if the integrity of the comparative negotiation or comparative evaluation process is protected and the correction or withdrawal would not give an offeror an unfair advantage as determined by the department. An offeror may correct mistakes discovered before the proposal closing time and date by withdrawing or modifying the proposal.

(11) If mistakes in proposals are discovered after the proposal closing time and date but before award, the following procedures shall apply:

(A) As to minor informalities which are matters of form rather than substance or insignificant mistakes correctable without unfair advantage to the offeror, the department shall waive or allow the offeror to correct the mistake if considered by the department to be in its best interest. A minor informality can only result if the effect of correcting it is negligible on offeror responsiveness. Examples of minor informalities include failures of offerors:

1. To return the number of signed proposals required by the RFP;
2. To sign the proposals but only if the unsigned proposals are accompanied by materials otherwise indicating the offerors' intent to be bound; and
3. To acknowledge receipt of amendments to the RFPs, but only if either clear from the proposal that the offeror received the amendment and intended to be bound by its terms or the amendment had only a negligible effect on price, quantity, quality or delivery;

(B) As to any mistake obvious on the face of the proposal, the department shall correct the mistake if the intention is clearly evident on the face of the proposal document as determined by the department. These types of mistakes include typographical errors, errors in extending unit prices, transposition errors and calculation errors; and

(C) As to mistakes for which the intended correct proposal is not evident, the department may permit the offeror to withdraw a

proposal if the department determines either of the following:

1. The mistake is clearly evident to the department on the face of the proposal document but the intended proposal is not similarly evident; and

2. The offeror submits evidence which clearly and convincingly determines that a mistake has been made.

(12) The department shall not allow mistakes to be corrected after award unless the department determines in writing that it would be unconscionable not to allow the mistake to be corrected.

(13) The department shall issue a determination in writing granting or denying requests to correct or withdraw proposals because of a mistake.

AUTHORITY: sections 34.100, 630.050 and 630.405, RSMo 2000. Original rule filed Oct. 16, 1986, effective July 13, 1987. Emergency amendment filed July 7, 1992, effective July 17, 1992, expired Nov. 13, 1992. Amended: Filed July 7, 1992, effective Feb. 26, 1993. Amended: Filed Oct. 31, 2000, effective May 30, 2001.*

**Original authority: 34.100, RSMo 1945, amended 1983, 1995; 630.050, RSMo 1980, 1993, 1995; and 630.405, RSMo 1980, 1993, 1995.*

9 CSR 25-2.405 RFP Evaluation and Award

PURPOSE: This rule prescribes the request for a proposal evaluation and award procedures.

(1) All proposals received before the closing time and date shall be reviewed by the department.

(2) The department shall first evaluate proposals for responsiveness to the request for a proposal (RFP) criteria, terms and conditions. The department shall not evaluate any proposal on any criteria which is not disclosed in the RFP and amendments. The department shall not recommend any non-responsive proposal to the next evaluation step.

(3) When the request for proposal stipulates the procurement procedure to be noncompetitive negotiation, the following procedures shall be taken:

(A) A negotiation officer/team shall conduct negotiations, as appropriate to price, scope of work and needed services;

(B) The negotiation officer/team should make a list of specific objectives relating to price, performance standards and other conditions in preparation of the negotiations;

(C) The negotiation officer/team and the offeror shall negotiate the items specified as the specific objectives;

(D) A record of services procured through the noncompetitive negotiation procedures shall be maintained that lists—

1. Each contractor's name;
2. The amount and location of each contract; and
3. The services procured under each contract; and

(E) Should the department be unable to negotiate an acceptable contract, other offerors may be solicited by any procurement method allowed by this rule.

(4) When the request for proposal stipulates the procurement procedure to be comparative negotiation, the following procedures shall be taken:

(A) If one (1) proposal is received from a responsive offeror, the department shall evaluate it to determine the award. The department may give the offeror an opportunity to revise the proposal if any proposal elements are not acceptable by the department or are contrary to the RFP and do not negate the competitive process. The department shall evaluate the unit price(s) by comparing it with the average unit prices the department currently pays or has previously paid for the services in the area;

(B) If only two (2) proposals are received, the department shall also evaluate the weighted average unit prices by comparing each proposal and the average unit prices the department currently pays or has previously paid for the services in the area;

(C) If more than two (2) proposals from responsive offerors are received offering to provide the same services in a geographic area specified in an RFP, the department shall determine if any of the proposals contain desirable elements not specified in the RFP. Where a change in the RFP results, the department shall inform the responsive offerors of the change in desirable elements. Where a change has resulted, each responsive offeror may submit a revised and final proposal based upon the original RFP and the subsequent list of desirable elements for reevaluation; and

(D) If three (3) or more proposals are received, the department shall evaluate weighted average unit price by comparing the average unit prices from the responsive offerors.

(5) When the request for proposal stipulates the procurement procedure to be comparative evaluation, the resulting contract shall be awarded to the best proposal to the department. After determining responsiveness, all proposals will be evaluated in accordance with the evaluation categories, respective weight criteria or method of evaluation as listed in the RFP. For alcohol and drug abuse services, the department may conduct negotiations with the responsive offerors as described in the RFP. If negotiations are conducted for alcohol and drug abuse services, the negotiation proceedings shall be public.

(6) An award or multiple awards shall be selected by the department based on the lowest and best proposal(s). If the department chooses not to select any proposal submitted in response to any RFP, the department shall issue another RFP or shall forego purchasing the particular service(s) in the area.

(7) The department reserves the right to make multiple awards when a single provider is unable to meet the units of service required geographically and other factors considered. RFP criteria, service quantity, scope of work, and the like, will determine the possibility of multiple awards. A record showing the basis for determining the successful offerors shall be made a part of the procurement file.

(8) The evaluation committee or individual designated to evaluate the proposals shall recommend award to the contracts' coordinator for review and recommendation to the director of the division, or designee, for which the services are to be purchased. If the division approves the award, the purchase of service unit shall forward the contract to the deputy director of administration (mental health) for signature. Upon signature by the deputy director of administration (mental health), the contract is final.

(9) The department shall make the notice of award available to the public.

AUTHORITY: sections 34.100, 630.050 and 630.405, RSMo 1986. Original rule filed Oct. 16, 1986, effective July 13, 1987. Emergency amendment filed May 15, 1990, effective May 25, 1990, expired Sept. 21, 1990. Amended: Filed Aug. 14, 1990, effective March 14, 1991. Emergency amendment filed July 7, 1992, effective July 17, 1992, expired Nov. 13, 1992. Amended: Filed July 7, 1992, effective Feb. 26, 1993.*

**Original authority: 34.100, RSMo 1945, amended 1983; 630.050, RSMo 1980; and 630.405, RSMo 1980.*

9 CSR 25-2.505 Protest and Appeal Procedures

PURPOSE: This rule prescribes procedures for offerors to protest the department's competitive Request for Proposal solicitation process and/or appeal a department decision regarding the award of contract(s), as a result of a competitive Request for Proposal process.

(1) An aggrieved offeror may protest the solicitation process performed by the department with a competitive Request for Proposal (RFP).

(A) The aggrieved offeror shall issue a protest of the solicitation process, in writing, to the department's contract coordinator in the Office of Administration (Mental Health). The aggrieved offeror must submit the protest with reasonable promptness to their notice of the complaint and prior to the date of contract award.

(B) Any offeror protesting a solicitation process under this rule shall include in their written protest the name and address of the offeror aggrieved, the RFP number and their complaint of the solicitation process. The offeror shall include support documentation to substantiate any claims made and specify the relief requested from the department.

(C) Upon receipt of protest the contracts coordinator shall consult with the deputy director of administration (Mental Health). Upon the finding of facts the department shall take appropriate action and issue a written response to the involved parties within ten (10) state working days of receipt of the protest. The department's written response shall be final.

(2) An aggrieved offeror may appeal a department decision regarding the award of contract(s), as a result of a competitive Request for Proposal process.

(A) The aggrieved offeror shall issue an appeal of a contract award, in writing, to the director of the division for which the services are to be purchased (directors of the Division of Mental Retardation and Developmental Disabilities, Division of Comprehensive Psychiatric Services or Division of Alcohol and Drug Abuse) within ten (10) state working days of the department's issuance of a notice of contract award, of which aggrieved.

(B) Any offeror appealing a contract award under this rule shall include in their written appeal the name and address of the offeror aggrieved, the RFP number, the name of the contract awardee and their complaint. The offeror shall state the specific grounds for the

appeal and include supporting documentation.

(C) Upon receipt of an appeal the division director shall consult with the deputy director of administration (Mental Health) and shall issue a written response to the involved parties within fifteen (15) state working days of receipt of the appeal. The division director's written response shall be a decision to accept or reject the appeal.

(D) If the offeror finds the written response of the division director to be unacceptable, the offeror may issue an appeal of the decision, in writing, to the department director within ten (10) state working days after the issuance of the division director's written response.

(E) If an aggrieved offeror appeals the division director's response, the aggrieved offeror shall state the specific reasons why the response was not acceptable and why the aggrieved offeror is appealing the response to the department director.

(F) Within fifteen (15) state working days of receipt of the offeror's appeal of the division director's response, the department director shall issue a written response to the involved parties. The department director's written response shall be a decision to accept or reject the appeal. The department director's written response shall be final.

(3) At each step of the protest or appeal procedure the element of time shall be measured by date stamp or registered mail receipt for the date of receipt and U.S. mail postmark for the date of issuance.

AUTHORITY: sections 34.100 and 630.050, RSMo 2000 and 630.405, RSMo Supp. 2001. Original rule filed Oct. 16, 1986, effective July 13, 1987. Emergency amendment filed May 15, 1990, effective May 25, 1990, expired Sept. 21, 1990. Amended: Filed Aug. 14, 1990, effective March 14, 1991. Amended: Filed Dec. 12, 2001, effective June 30, 2002.*

**Original authority: 34.100, RSMo 1945, amended 1983, 1995; 630.050, RSMo 1980, 1993, 1995; and 630.405, RSMo 1980, 1993, 1995, 2001.*