

§1825-E. Appeal procedures

The Director of the Bureau of General Services shall ensure that every department or agency of State Government affords aggrieved persons an opportunity to appeal a contract or grant award decision. As provided by this section, rules adopted under this subchapter must establish clear procedures by which an aggrieved person may appeal a contract or grant award decision. [PL 2015, c. 179, §6 (AMD).]

1. Stay. Persons aggrieved by a contract or grant award decision may request a stay of an award decision. Such a request must be made to the Director of the Bureau of General Services in writing within 10 days of notification of the contract or grant award and must state the nature of the grievance.

The Director of the Bureau of General Services shall issue a stay of a contract or grant award decision, pending appeal, upon a showing of irreparable injury to the petitioner, a reasonable likelihood of success on the merits, and no substantial harm to adverse parties or to the general public.

The Director of the Bureau of General Services shall notify the petitioner in writing of the director's decision regarding the issuance of a stay within 7 days of receipt of the request.

Failure of the petitioner to obtain a stay does not affect the petitioner's right to a hearing of appeal under this subchapter.

[PL 2015, c. 179, §6 (AMD).]

2. Request for hearing of appeal. Persons aggrieved by an agency contract or grant award decision under this subchapter may request a hearing of appeal. Such a request must be made to the Director of the Bureau of General Services in writing within 15 days of notification of the award. The Director of the Bureau of General Services shall grant a hearing of appeal unless:

A. The Director of the Bureau of General Services determines that:

- (1) The petitioner is not an aggrieved person;
- (2) A prior request by the same petitioner relating to the same contract or grant award has been granted;
- (3) The request was made more than 15 days after notice of contract or grant award; or
- (4) The request is capricious, frivolous or without merit; or [PL 2015, c. 179, §6 (AMD).]

B. No contract or grant was awarded. [PL 2015, c. 179, §6 (AMD).]

The Director of the Bureau of General Services shall notify the petitioner in writing of the director's decision regarding a request for a hearing of appeal within 15 days of receipt of the request. If a request for a hearing is granted, notification must be made at least 10 days before the hearing date and must include the date and location of the hearing and the names of the appeal committee members.

[PL 2015, c. 179, §6 (AMD).]

3. Appeal committee. A committee of 3 members shall hear a petitioner's appeal within 60 days of receipt of the request for an appeal. The Commissioner of Administrative and Financial Services shall appoint 2 members of an appeal committee, except that persons who have any direct or indirect personal, professional or financial conflict of interest in the appeal or employees of any department affected by the contract or grant may not serve on the appeal committee. The 3rd member is the Director of the Bureau of General Services or the director's designee.

Members of an appeal committee appointed under this section shall meet at the appointed time and place in the presence of the petitioner and such individuals as the petitioner determines necessary for a full and fair hearing. The petitioner may present to the appeal committee any materials the petitioner considers relevant to the appeal.

The appeal committee shall keep a written record of each hearing and shall submit its decision and the reasons for its decision to the Director of the Bureau of General Services in writing no later than 15 days following the hearing of appeal.

Subject to the requirements of rules adopted under this section and evidence presented during a hearing of appeal, the appeal committee may decide either to:

- A. Validate the contract or grant award decision under appeal; or [PL 2015, c. 179, §6 (AMD).]
- B. Invalidate the contract or grant award decision under appeal. [PL 2015, c. 179, §6 (AMD).]

Except as provided in paragraph B, an appeal committee may not modify the contract or grant award under appeal, or make a new award. Contracts or grants found invalid by an appeal committee under this subchapter become immediately void and of no legal effect.

[PL 2015, c. 179, §6 (AMD).]

SECTION HISTORY

PL 1989, c. 785, §2 (NEW). PL 1991, c. 780, §Y71 (AMD). PL 1993, c. 192, §1 (AMD). PL 2015, c. 179, §6 (AMD).

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