



FED GOV CON
Webinar Wednesdays
2019 Series

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About Our Speaker:

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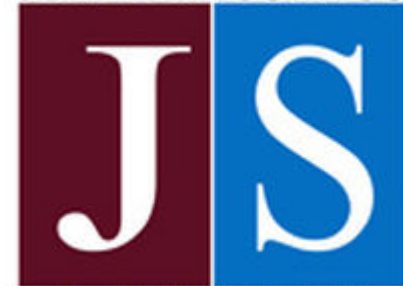
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Protora Law PLLC

of Years Federal Gov Con Experience:

25+ years

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Debriefs – Why & How – Understanding The Timeline

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- Debriefings provide a summary of an agency's evaluation of an disappointed offeror's proposal
- The agency will provide either a pre-award debriefing or a post-award debriefing
- An agency is not required to provide debriefings in every procurement – i.e., task order procurements under FSS/MAS/GSA Schedule contracts
- “Required Debriefings” provided only in contract procurements (FAR Part 15) and task order procurements under GWAC or IDIQ contracts *above \$5.5 million* (FAR Part 16)

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- Agencies will only provide “required” debriefings if an offeror requests such a debriefing within three (3)
- An agency is not required to provide debriefings in every procurement – i.e., task order procurements under GSA Schedule contracts
- “Required Debriefings” only in contract procurements and task order order procurements under GWAC or IDIQ contracts

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- An agency will not provide a debriefing unless an offeror (1) makes a written request for a debriefing and (2) such request is made within three (3) calendar days of an offeror's receipt of (a) notice of its exclusion from the competitive range or (b) notice of the agency's contract award
- An agency may delay a pre-award debriefing until after award
- "To the maximum practical extent" an agency should provide an offeror a post- award debriefing within five (5) days of its request
- An agency has discretion to provide debriefings where an offeror's request for a debriefing was not made within the three (3) day period

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- Per the FAR, an agency must allow an offeror to ask questions during a debriefing
- An issue often arises when an agency provides offerors with a written debriefing
- If an offeror is considering protesting its exclusion from the competitive range or the contract award, the FAR requires the offeror to file its debriefing with the GAO within **five (5) calendar days** following the debriefing or ten (10) calendar following the date of the contract award, whichever is later, *if the offeror wants to stay the procurement or contract performance (CICA stay)*

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- When is the debriefing completed?
 - After receipt of the written debriefing?
 - After an offeror submits questions and the agency provides answers to the questions?
 - How many rounds of questions are allowed?
- Depends
 - On agency point of view
 - In doubt ask in writing and obtain answer in writing
 - File protest within five (5) calendar days of receipt of written debriefing to be safe

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- Department of Defense memorandum regarding debriefings
 - Known as “Enhanced Post-Award Debriefing Rights”
 - Effective March 2, 2018
- Purpose is to address this issue of questions following written debriefing
- Enhance debriefing rights not available for:
 - Commercial item procurements under FAR Part 12
 - Simplified acquisitions under FAR part 13
 - FSS/MAS/GSA schedule procurements under FAR Part 8
 - Sealed bidding procurements under FAR Part 14

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- If the agency has provided a written “required” debriefing, a DoD agency will not consider the debriefing complete if an offeror submits questions within **two (2) business days** following receipt of the written debriefing
- DoD agency must respond to questions timely submitted **within five (5) business days** of its receipt of questions
- A debriefing is considered “concluded” upon the offeror’s receipt of the DoD agency’s responses

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- For a DoD procurement, five (5) calendar day clock starts after notice of award, if the offeror does not submit questions
- For a DoD procurement, five (5) calendar day clock starts after the offerors receipt of agency answers to offeror questions
- For a civilian procurement, five (5) calendar day clock starts?
- Ten (10) calendar day clock still in force

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- Best practice to make a written request for a debriefing in any procurement right away
- Best practice to follow-up a written debriefing with questions
- But, if debriefing will be provided by a civilian agency, best practice to file a protest within five calendar days following a written debriefing unless the agency has stated clearly, in writing, that it will not consider the debriefing completed until it responds to offeror questions
- 5 and 10 day rule only necessary if protest contemplated and CICA stay desired



THANK YOU!
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