

**RULES  
OF  
GEORGIA DEPARTMENT OF TRANSPORTATION  
CHAPTER 672-21  
BID PROTEST PROCEDURES FOR CERTAIN CONSTRUCTION PROJECTS**

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## **672-21-.01 Definitions.**

The following words when used in Chapter 672-21 shall have the following meanings:

- (a) “Apparent Low Bidder” means the Bidder identified by the Department to be the lowest reliable bidder for a Construction Project.
- (b) “Award” means the formal acceptance by the Department of a Proposal.
- (c) “Bid Protest” means a challenge by a Bidder made pursuant to this Chapter to the identification by the Department of an Apparent Low Bidder or of an Award.
- (d) “Bidder” means a qualified individual, firm or corporation, or combination thereof, submitting a written Proposal for The Work advertised.
- (e) “Bid Protest Bond” means a bond required to be filed with the Bid Protest Form using the bond form available on the Department’s website at [www.dot.ga.gov](http://www.dot.ga.gov) and in the amount as determined by this Chapter.
- (f) “Bid Protest Form” means the form provided on the Department’s website at [www.dot.ga.gov](http://www.dot.ga.gov).
- (g) “Board of Review” means a board consisting of not less than 3 members, all of whom shall be employees of the Department. All members shall be appointed by order of the Commissioner.
- (h) “Commissioner” means the Commissioner of the Department.
- (i) “Construction Project” means a Department project procured pursuant to O.C.G.A. Section 32-2-69 and in the amount of at least \$200,000.
- (j) “Department” means the Georgia Department of Transportation.
- (k) “Final Decision” means the written decision issued by the Commisisoner pursuant to Rule 672-21-.05.
- (l) “O.C.G.A.” means the Official Code of Georgia Annotated.
- (m) “Preliminary Decision” means the written decision issued by the Board of Review pursuant to Rule 672-21-.05.
- (n) “Proposal” means the offer of a Bidder, on the prescribed form, to perform The Work at the prices quoted for a Construction Project.
- (o) “Protesting Bidder” means a Bidder who has filed a Bid Protest pursuant to this Chapter.
- (p) “The Work” means the furnishing of all labor, materials, equipment, superintendence and other incidentals necessary for the successful completion of a Construction Project and the carrying out of all the duties and obligations imposed by the contract.

Authority: O.C.G.A. §§ 32-2-69, 50-13-4

## **672-21-.02 Eligibility for Filing Bid Protest.**

- (1) The following Bidders may file a Bid Protest:
  - a. a Bidder who has not been identified as the Apparent Low Bidder for a Construction Project and where its bid is in an amount lower than that of the Apparent Low Bidder; or
  - b. an Apparent Low Bidder that has not been awarded the Construction Project.
- (2) No Bidder may file a Bid Protest when:

- a. all bids have been rejected by the Department for the subject Construction Project;  
or
  - b. the Department determines in its sole discretion that any and all Bid Protests are barred as a result of an imminent or serious danger to the public health, safety, or welfare or to property that requires the immediate awarding of the Construction Project.
- (3) Failure to timely file a Bid Protest pursuant to this Chapter constitutes a waiver of the right to file a Bid Protest.
  - (4) Failure to include the information and documentation required by this Chapter with a Bid Protest constitutes a waiver of the right to file a Bid Protest.
  - (5) Completion of the Bid Protest procedures described in this Chapter is a condition precedent to the commencement of any legal or equitable action.

Authority: O.C.G.A. §§ 32-2-69, 50-13-4

### **672-21-.03 Filing of Bid Protest.**

- (1) A Bid Protest shall be addressed to the Department's General Counsel and sent to the following address: 600 West Peachtree Street NW, Atlanta GA 30308 or sent by emailing to the following address bidprotest@dot.ga.gov.
- (2) A Protesting Bidder must complete and submit the Bid Protest Form. At a minimum, the Protesting Bidder must identify the project number, the letting number, call number, the entity making the protest, and must include the factual and legal basis upon which the Bid Protest is based and any documents supporting the protest. The Bid Protest must be executed by an officer authorized to execute agreements on behalf of the Bid Protester and must include the corporate seal of the Protesting Bidder and a notary seal.
- (3) The time for filing a Bid Protest is as follows:
  - a. For a Bid Protest filed pursuant to Rule 672-21-.02(1)(a), the Bid Protest must be filed with the Department during the 72-hour period which begins upon the electronic posting of a decision or intended decision identifying the Apparent Low Bidder.
  - b. For a Bid Protest filed pursuant to Rule 672-21-.02(1)(b), the Bid Protest must be filed with the Department during the 72-hour period which begins upon the electronic posting of the Award of the Construction Project.
  - c. The Bid Protest must be received by the Department before the 72-hour period expires.
  - d. The 72-hour period is not extended by filing the Bid Protest by mail.
  - e. Saturdays, Sundays, and legal holidays shall be excluded in computing the 72-hour period.
- (4) A Bid Protest Bond is required and shall be filed with the Bid Protest using the form available on the Department's website at www.dot.ga.gov. The amount of the Bid Protest Bond shall be determined as follows:
  - a. A \$1,000 bond is required for Construction Projects with a bid amount by the Bid Protestor of less than \$500,000.

- b. A \$2,000 bond is required for Construction Projects with a bid amount by the Bid Protestor between \$500,001 and \$1,000,000.
- c. A bond equal to one-half percent (0.5%) of the bid amount submitted by the Bid Protestor if that value is greater than \$1,000,000.
- d. In no event, however, may a Bid Protest Bond exceed \$15,000.

Authority: O.C.G.A. §§ 32-2-69, 50-13-4

**672-21-.04 Withholding of Award.**

- (a) Where a Bid Protest has been filed pursuant to Rule 672-21-.02(1)(a), the Department will defer the Award of the subject Construction Project until either the Bid Protest has been withdrawn or the Department has made a Final Decision as to the action to be taken regarding the Bid Protest.
- (b) Where a Bid Protest has been filed pursuant to Rule 672-21-.02(1)(b), the Department will defer the execution of the contract for the subject Construction Project until either the Bid Protest has been withdrawn or the Department has made a Final Decision as to the action to be taken regarding the Bid Protest.

Authority: O.C.G.A. §§ 32-2-69, 50-13-4

**672-21-.05 Department Review and Determination.**

- (1) Upon the receipt of a completed Bid Protest Form, the Board of Review shall set a date and time for an informal hearing to be held in the matter and shall provide the Bid Protestor written notice.
- (2) An informal hearing shall be held in front of the Board of Review 14 days after the receipt of a completed Bid Protest Form.
- (3) Documentary evidence and testimony may be presented at the informal hearing by the Department or Protesting Bidder.
- (4) Within 5 days after the conclusion of the informal hearing, the Board of Review shall render a written Preliminary Decision and shall thereafter cause a copy of this Preliminary Decision to be served upon the Protesting Bidder.
- (5) Within 3 days of receipt of the Preliminary Decision, the Protesting Bidder may request a formal hearing with the Commissioner. Failure to request a formal hearing within 3 days after receipt of the Preliminary Decision shall act as waiver of any additional appeal rights of the Protesting Bidder and the Preliminary Decision of the Board of Review shall become the Final Decision. The request for a formal hearing shall be emailed to [bidprotest@dot.ga.gov](mailto:bidprotest@dot.ga.gov).
- (6) If a request for a formal hearing made pursuant to this Rule has been received, the Commissioner shall set a date and time for a hearing to be held in the matter and shall provide the Protesting Bidder written notice.
- (7) A hearing with the Commissioner shall be held 14 days after the receipt of a valid request from the Protesting Bidder.
- (8) Within 5 days after the hearing, the Commissioner shall issue a Final Decision and shall thereafter cause a copy of the Final Decision to be served upon the Protesting Bidder.

- (9) All written notices to the Protesting Bidder shall be served personally or to the mailing address, e-mail address, or facsimile number identified by the Bid Protestor on the Bid Protest Form.
- (10) If the Department determines in the Final Decision that the Bid Protest does not have merit, the Bid Protestor shall forfeit their Bid Protests Bond. If the Department determines in the Final Decision that the Bid Protest does have merit, the Bid Protest Bond shall not be forfeited and the Bid Protest Bond will be returned to the successful Bid Protester.

Authority: O.C.G.A. §§ 32-6-69, 50-13-4