

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

SENATE BILL 449

By: Senator Hester
By: Representative Wardlaw

For An Act To Be Entitled

AN ACT TO CLARIFY THE RESOLUTION OF PROTESTED SOLICITATIONS AND AWARDS UNDER THE ARKANSAS PROCUREMENT LAW; TO CLARIFY THAT THE ARKANSAS STATE CLAIMS COMMISSION HAS EXCLUSIVE JURISDICTION OVER ALL CLAIMS AGAINST THE STATE IN CONNECTION WITH THE SOLICITATION OR AWARD OF A CONTRACT; TO CLARIFY THAT ADMINISTRATIVE DECISIONS REGARDING A PROTEST ARE NOT ORDERS SUBJECT TO THE ARKANSAS ADMINISTRATIVE PROCEDURE ACT; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY THE RESOLUTION OF PROTESTED SOLICITATIONS AND AWARDS UNDER THE ARKANSAS PROCUREMENT LAW.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 19-11-244(b) and (c), concerning the resolution of protested solicitations and awards, are amended to read as follows:

(b)(1)(A) ~~Prior to the commencement of an action in court or any other action provided by law concerning the controversy, the~~ The director, the head of a procurement agency, or a designee of either officer may settle and resolve a protest concerning the solicitation or award of a contract before rendering an administrative protest determination.

(B)(i) A meeting in an attempt to settle or resolve a



protest is not a public meeting.

(ii) However, a final settlement or resolution of a protest made under this section shall not be kept secret, sealed, or withheld from public disclosure.

(2) This The authority to settle or resolve a protest under this section shall be exercised in accordance with laws governing the Arkansas State Claims Commission, which has exclusive jurisdiction over all claims against the state in connection with the solicitation or award of a contract, and the ~~regulations~~ rules promulgated by the director.

(c)(1) If ~~the~~ a protest is not settled or resolved by mutual agreement under subsection (b) of this section, and after reasonable notice to the protestor involved and reasonable opportunity for the protestor to respond to the protest issues according to the regulations promulgated by the director, the head of a procurement agency, the director, or a designee of either officer shall promptly issue a ~~decision~~ an administrative protest determination in writing.

(2) The ~~decision~~ administrative protest determination shall state the reasons for the action taken.

SECTION 2. Arkansas Code § 19-11-244(e), concerning the resolution of protested solicitations and awards, is amended to read as follows:

(e) A ~~decision~~ An administrative protest determination under subsection (c) of this section shall be final is:

(1) Final and conclusive; and

(2) Not an order as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

APPROVED: 04/04/2017