

(i) The protester has alleged a substantial case;

(ii) The lack of a suspension would be likely to cause irreparable injury;

(iii) The relative hardships on the parties favor a suspension; and

(iv) That a suspension is in the public interest.

(3) Failure of a protester to provide information or documents in support of a requested suspension or failure to address the elements of paragraph (d)(2) of this section may result in the summary rejection of the request for suspension, or a requirement that the protester supplement its request prior to the scheduling of a Product Team response to the request under § 17.17(a).

(e) Concurrent with the filing of a protest with the ODRA, the protester shall serve a copy of the protest on the CO and any other official designated in the SIR for receipt of protests, by means reasonably calculated to be received by the CO on the same day as it is to be received by the ODRA. The protest shall include a signed statement from the protester, certifying to the ODRA the manner of service, date, and time when a copy of the protest was served on the CO and other designated official(s).

(f) Upon receipt of the protest, the CO shall notify the awardee of a challenged contract award in writing of the existence of the protest. The awardee and/or interested parties shall notify the ODRA in writing, of their interest in participating in the protest as intervenors within two (2) business days of receipt of the CO's notification, and shall, in such notice, designate a person as the point of contact for the ODRA.

(g) The ODRA has discretion to designate the parties who shall participate in the protest as intervenors. In protests of awarded contracts, only the awardee may participate as an intervenor as a matter of right.

[76 FR 55221, Sept. 7, 2011, as amended by Doc. No. FAA-2017-0075, 82 FR 14429, Mar. 21, 2017]

§ 17.17 Initial protest procedures.

(a) If, as part of its initial protest filing, the protester requests a suspension of procurement activities or contractor performance in whole or in part, in ac-

cordance with § 17.15(d), the Product Team shall submit a response to the request to the ODRA by no later than the close of business on the date of the initial scheduling conference or on such other date as is established by the ODRA. Copies of the response shall be furnished to the protester and any intervenor(s) so as to be received within the same timeframe. The protester and any intervenor(s) shall have the opportunity of providing additional comments on the response within two (2) business days of receiving it. Based on its review of such submissions, the ODRA, in its discretion, may—

(1) Decline the suspension request; or

(2) Recommend such suspension to the Administrator or the Administrator's designee. The ODRA also may impose a temporary suspension of no more than ten (10) business days, where it is recommending that the Administrator impose a suspension.

(b) Within five (5) business days of the filing of a protest, or as soon thereafter as practicable, the ODRA shall convene an initial status conference for purposes of:

(1) Reviewing the ODRA's ADR and adjudication procedures and establishing a preliminary schedule;

(2) Identifying legal or other preliminary or potentially dispositive issues and answering the parties' questions regarding the ODRA process;

(3) Dealing with issues related to protected information and the issuance of any needed protective order;

(4) Encouraging the parties to consider using ADR;

(5) Appointing a DRO as a potential ADR neutral to assist the parties in considering ADR options and developing an ADR agreement; and

(6) For any other reason deemed appropriate by the DRO or by the ODRA.

(c) The Product Team and protester will have five (5) business days from the date of the initial status conference to decide whether they will attempt to use an ADR process in the case. With the agreement of the ODRA, ADR may be used concurrently with the adjudication of a protest. See § 17.37(e).

(d) If the Product Team and protester elect to use ADR proceedings to resolve the protest, they will agree upon the