

# Wyoming Stable Token Commission

General Agency, Board or Commission

Chapter 5: Dispute Resolution and Bidder or Firm Discipline

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## **Chapter 5**

### **Dispute Resolution and Bidder or Firm Discipline**

#### **Emergency rules are in effect no longer than 120 days after filing with the Registrar of Rules.**

##### **Section 1. Authority.**

(a) These rules are promulgated by the Wyoming Stable Token Commission, herein referred to as the Commission, in accordance with W.S. 40-31-105(b) and 40-31-110.

##### **Section 2. Judicial review.**

(a) With regard to actions for procurement subject to these rules, an aggrieved or adversely affected person may initiate a judicial review per W.S. 16-3-114.

(b) Nothing in this subsection shall be construed as an administrative appeal and a person need not request or participate in informal dispute resolution prior to seeking judicial review.

(c) If a judicial review action has been commenced in district court regarding a matter at issue in a request for informal dispute resolution under these rules, the Commission shall not act on the request, but shall refer it to the Attorney General's Office and provide notice of such action to the requester.

##### **Section 3. Informal dispute resolution.**

(a) A bidder or firm may file a written request for informal dispute resolution with the Commission concerning a Commission action within the following timelines:

- (i) Accepting or rejecting bids: within ten (10) business days of bid opening;
- (ii) Requests for proposal: within ten (10) business days of notice of exclusion from consideration;
- (iii) Project award: Within ten (10) business days of project notice to award. Contract negotiation may proceed but contract execution shall not proceed until the period for requesting dispute resolution has expired.

(b) A written request for dispute resolution shall include:

- (i) The name and address of aggrieved party;
- (ii) Identification of the procurement in question by solicitation or award number;
- (iii) A statement of issue(s); and

(iv) Any available exhibits, evidence, or documents related to the request that the requester wants to be considered during the dispute resolution.

(c) Upon receipt of a valid request for dispute resolution, the Director or their designee and members of the Board, if applicable, shall meet with the requester to discuss the issues in the request. The informal meeting may be held in person, over the phone, or by any other means.

#### **Section 4. Contractor or firm discipline.**

(a) Any contractor or firm whose performance has been unsatisfactory as reported by the Director or Commission may be subject to disciplinary actions, which may include revocation of the contractor or firm's prequalified status, suspension, or debarment.

(b) At the discretion of the Director or Commission, as applicable, conditions which may warrant disciplinary action include, but are not limited to:

- (i) Late delivery of services or materials;
- (ii) Failure to deliver services or materials as bid or proposed;
- (iii) Unauthorized substitutions of services or materials other than those specified;
- (iv) Defective performance of services or delivery of defective materials;
- (v) Billing errors;
- (vi) Submitting or participating in multiple bids when not specifically requested in the solicitation;
- (vii) The improper or illegal conduct of an individual employed in a position of authority with a contractor or firm, when on or off his or her job with the contractor or firm. Positions of authority include, but are not limited to officer, director, partner, manager, key employee, or other principal;
- (viii) Undisclosed relationships or affiliations that create or could create a conflict of interest preventing true competitive procurements; or
- (ix) Changed conditions, including any development that arises which, in the opinion of the Director or Commission in the case of suspension or debarment, adversely reflects the bidder's responsibility or trustworthiness.

(c) Revocation. The Commission may revoke a potential bidder's or firm's prequalified status if the Director or Commission becomes aware of circumstances that negate the information used to award the prequalification. The Director or their designee shall provide notice to the potential bidder or firm and an adequate opportunity to cure the identified deficiency.

(d) Notices for suspension or debarment. Prior to any suspension or debarment under Section 4(a) of this chapter, the Director or their designee shall:

(i) Notify the Commission of its intent to conduct an investigation that may result in a revocation or recommendation for suspension or debarment;

(ii) Conduct an investigation; and

(iii) Make a recommendation to the Commission for suspension or debarment if the investigation leads the Commission to believe such action is warranted. The recommendation shall contain an explanation of the conduct or circumstances giving rise to the action and the time length of the suspension or the required corrective action necessary to cure the debarment.

(e) Prior to the issuance of a suspension or debarment, the Director or their designee shall provide a contractor or firm the opportunity to respond and present evidence in support of his or her position, in writing, to the Commission's recommendation. Such a response shall contain:

(i) A brief explanation of why the recommendation should not be granted;

(ii) Any additional facts the contractor or firm would like to be considered;  
and

(iii) The legal authority upon which it is believed a decision was made in error.

(f) The Director or their designee shall issue a written decision, in consultation with the Commission's advising attorneys from the Attorney General's Office, laying forth the factual and legal bases for their decision. The contractor or firm shall be given written notification of any disciplinary action, the consequences of that action, and the duration of that discipline if the Commission decides to suspend or debar the contractor or firm.

(g) The Commission shall keep a statewide list of suspended and debarred persons and contractors.

(h) Suspension. The Commission may suspend a contractor or firm, for cause and in accordance with this chapter, from bidding on contracts for projects procured under these rules, applying for prequalification, or submitting proposals for services or materials. The suspension shall only be in effect for a specified period of time.

(i) The Commission has the discretion to define the suspension term, and may consider the circumstances underlying the suspension, the behavior, conduct, or events that precipitated the suspension, and any relevant extenuating circumstances.

(ii) Upon completion of the suspension term, the contractor or firm shall be permitted to bid and apply for prequalification.

(i) Debarment. The Commission may debar a contractor or firm, for cause and in accordance with this chapter, from bidding on contracts for projects procured under these rules, applying for prequalification, or submitting proposals for services or materials. The debarment shall only be in effect until such time as the contractor or firm takes specified corrective action and shows evidence that it has done so.

(i) After the Commission opts to debar a contractor or firm, it shall inform the Director or their designee that conducted the investigation leading to the debarment and the contractor or firm of its decision.

(ii) A contractor or firm may request the Commission review its status at any time. Such request shall include a showing that the contractor or firm has cured the identified deficiency by completing the required corrective action. If the Commission concludes that the contractor or firm has cured the identified deficiency, the Commission shall permit the contractor or firm to bid on contracts for projects procured under these rules, apply for prequalification, or submit proposals for services or materials.

(j) Exception. If a suspended or debarred contractor or firm is the only contractor or firm legally able to provide a particular service necessary to the Commission's project, the Director or their designee may request the Commission grant a temporary exception to that suspension or debarment on behalf of the contractor or firm. The request from the Director or their designee shall include a showing to justify why the exception is necessary under the circumstances. The Commission has discretion to grant or deny such requests. An exception granted under this section does not constitute the end of the contractor or firm's suspension or debarment and an exception granted for one project shall not allow the contractor or firm to bid on work for other projects, including those in which the contractor or firm would be the only contractor or firm legally able to provide the requested services or materials.