



*workforce* **CONNECTIONS**  
PEOPLE. PARTNERSHIPS. POSSIBILITIES.

Notice: Request for Proposals  
for

**LEGAL SERVICES**

**Workforce Connections is soliciting proposals  
to provide Legal Services**

**ADDENDUM # 1**

**Publication of Proposal  
November 8, 2011**

**Submission of Proposal Deadline  
December 8, 2011**

*workforce*CONNECTIONS is an  
Equal Opportunity Employer/Program  
Auxiliary aids & services available upon request for individuals with disabilities  
from *workforce*CONNECTIONS

# QUESTIONS AND RESPONSES

## TO LEGAL SERVICES RFP

### Addendum #1

**Questions #1:** Section III A states Workforce Connections Policy 5.7 is available for review on the workforceCONNECTIONS website. I reviewed the website, but could not find it there. Could you send out a link to the policy?

**Response:** workforceCONNECTIONS' [wC ] Policy 5.7 is located on the wC web site. You must first tab the Partners section, once on this page tab "Looking for a Document" section, and you will located the policy on this next page. However, those who may continue to have difficulty locating this policy, it is attached for your review.

\* Attachment A

**Question #2:** With respect to the references. May we supply letters of recommendation from the references? If so, will the letters of recommendation count toward the total page limit of our response?

**Response:** All respondents may provide appropriate letters of recommendation from their their references. These letters shall not be applicable toward the total page limit of your response.

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**GENERAL POLICIES AND PROCEDURES**  
**PROCUREMENT GRIEVANCE PROCEDURE**

**EFFECTIVE DATE: August 23, 2011**

**SUPERSEDES: New**

**NUMBER: 5.7**

**AUTHORIZATION: Workforce Connections Board of Directors**

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**Background**

Federal regulations require Workforce Connections (“WC”) to have “protest procedures to handle and resolve disputes relating to [its] procurements.” 29 CFR § 97.36(b)(12). It is WC’s policy to resolve all contractual issues and procurement protests informally, without litigation.

**Protests Procedures**

**1. Definitions**

1.1 “WC” as used herein shall mean Workforce Connections.

1.2 “Contractor” as used herein shall mean any party who is party to a contract with WC or has been awarded a contract as a result of a procurement solicitation from WC.

1.3 “Prospective Contractor” as used herein shall mean any party who:

1.3.1 Has responded to a procurement solicitation from WC; or

1.3.2 Is a potential respondent to a current procurement solicitation from WC.

1.4 “ED” as used herein shall mean WC’s Executive Director.

1.5 “Protest” as used herein shall be interpreted as broadly as possible to included but not be limited to any complaint, protest, or appeal related to a WC procurement solicitation (including but not limited to the solicitation process and resulting award).

1.6 “Protesting Party” as used herein shall mean the Contractor or Prospective Contractor who submitted a Protest to WC.

1.7 “Solicitation” as used herein shall mean WC’s procurement solicitations.

1.8 “Solicitation Response” as used herein shall mean the response the Prospective Contractor submits to WC in response to the Solicitation.

## 2. **Parties who may submit a Protest**

2.1 The only parties who may submit a Protest regarding the resulting award of a Solicitation shall be those Prospective Contractors who submitted a response to the Solicitation for WC's consideration.

2.2 The only parties who may submit a Protest regarding the manner in which the Solicitation was conducted (including but not limited to the Solicitation language, the Solicitation itself, and WC's actions/inactions related to Solicitation) are those Prospective Contractors who communicated with WC regarding the Solicitation which is the subject of the Protest.

2.3 The only parties who may submit a protest relating in anyway to a contract with WC are WC and the party with whom WC as executed the contract at issue.

3. **Time to File Protests** Protests which are submitted late shall be denied as invalid and the Protesting Party shall have no further recourse, review, claim, or complaint regarding the Solicitation.

3.1 The following Protests must be received by the ED, care of WC at least one (1) business day before the Solicitation due date:

3.1.1 Protest regarding the language or the composition of a Solicitation;

3.1.2 Protests regarding whether WC complied with the Solicitation's pre-award procedures;  
and/or

3.1.3 Protests regarding WC's responses to pre-award questions relating to the Solicitation.

3.2 If the Prospective Contractor desires to stay the contract award until after the resolution of the Prospective Contractor's Protest, then the Prospective Contractor must serve a request to stay the contract award pending resolution of the Protest accompanied by the Prospective Contractor's Protest, at least 24 hours before the Workforce Connections Board meets to consider WC's staff contract award recommendation. Untimely requests by Prospective Contractors to stay the award of a contract will not be considered, unless the ED determines it is in WC's best interest to do so. In no event shall a request to stay the award of a contract be considered after the contract has been executed or after the time to serve a Protest has expired.

3.3 All other protests relating to a Solicitation (including but not limited to Protests regarding the award of a contract) must be received by the ED, care of WC at least 10 calendar days after the Workforce Connections board votes to award the contract to a respondent who responded to the Solicitation. Untimely Protests shall not be considered.

## 4. **Requests to Continue Contract Award**

4.1 All requests to continue the contract award pending resolution of the protest must:

4.1.1 Be submitted in writing; and,

4.1.2 Be accompanied by a completed Protest, which includes sworn statements from the Protesting Party's witnesses giving specific details relating alleged problems which are the basis for the Protest and the reason the contract award should be continued.

4.2 Oral requests shall not be accepted.

4.3 WC will only continue the award of a contract, pending the result of a protest, if ,in the ED's sole discretion, such action is in WC's best interests.

4.4 If, after reviewing the request to continue the contract award and the accompanying Protest, the ED determines before the contract has been awarded and in the ED's sole discretion, that it would be in WC's best interest to cancel the solicitation and/or reissue the solicitation, then WC shall act accordingly and the Protest shall be dismissed as moot and shall not be acted upon.

## 5. **Protest Content**

5.1 All Protests shall be in writing (oral protests shall not be accepted), and must include:

5.1.1 The name, address, e-mail address, and telephone number(s) of the Protesting Party;

5.1.2 The Solicitation number and project title;

5.1.3 A detailed written description of the basis for the Protest;

5.1.4 Citations to specific the laws, rules, regulations, statutes, policies, etc. which the Protesting Party alleges were violated

5.1.5 Evidence, documents, and sworn statements to substantiate the Protesting Party's allegations (a Protest which is only supported by allegations set forth in the detailed written description is an invalid protest and will be denied); and

5.1.6 The relief requested (e.g., reconsideration of their proposal, cancellation of the Solicitation, etc.), however the Protesting Party shall never be entitled to monetary damages.

5.2 The Protesting Party's failure to include the information required in section 4.1 in its Protest shall result in the Protest being denied as invalid.

## 6. **Protests regarding points awarded to Solicitation Responses**

6.1 A Protesting Party does not have the right to submit a Protest regarding the score awarded to a different Prospective Contractor's Solicitation Response.

6.2 A Protesting Party does not have the right to submit a Protest regarding the overall score its Solicitation Response received, or any score specifically assigned to a portion of the Protestor's Response, except that a Protestor may submit a Protest regarding any portion of the Solicitation Response which received no score (zero points) for failing to include a required component in the Solicitation Response, if the

Protesting Party actually included the necessary component in the Solicitation Response. To be clear here are examples of when a Protest regarding a score is allowed and is not allowed:

6.2.1 Example 1. The Solicitation asks the respondent to provide job training services for (1) adults and (2) youth between 16 and 17. A maximum of 10 points may be awarded for the proposed services adults, and a maximum of 10 points may be awarded for the proposed services for youth. Prospective Contractor “A” submits a response explaining services it would provide for both adults and youth between 16 and 17. However, the reviewer awards no points for the services for youth services portion. In this case, the Prospective Contractor may submit a Protest relating to not receiving any points for the youth service portion of the Solicitation Response.

6.2.2 Example 2. The Solicitation asks the respondent to provide job training services for (1) adults and (2) youth between 16 and 17. A maximum of 10 points may be awarded for the proposed services adults, and a maximum of 10 points may be awarded for the proposed services for youth. Prospective Contractor “A” submits a response explaining services it would provide for both adults and youth between 16 and 17. The Prospective Contractor receives 9 points for the adult services portion of the Solicitation Response and 1 point for the youth services portion. In this case the Prospective Contractor may not submit a Protest relating the points awarded to the Solicitation Response.

## 7. **Dispute Procedure**

7.1 The ED may suspend and/or cancel any Solicitation or the award of any contract resulting from a Solicitation, pending the resolution of a Protest, if in the ED’s sole discretion such a suspension is in WC’s best interests or is warranted by the evidence presented in the Protest.

7.2 Granting or Denying a Protest. A Protest may only be granted or denied by the ED, and may be granted or denied in whole or in part. If a Protesting Party proves with credible evidence that the allegations within the Protest occurred, by a preponderance of the evidence (meaning the Protesting Party proves the allegations more likely than not did in fact occur as claimed) then the proven portion of the Protest shall be granted. However, even though the Protest is granted it is up to the ED to determine the relief which should be granted to the Protesting Party. The Protesting Party shall not be entitled to monetary damages. The Protesting Party shall be limited to receive the following relief:

7.2.1 Suspension or termination of a Solicitation or a contract awarded as a result of a Solicitation;

7.2.2 Reconsideration of the Protesting Party’s Solicitation Response;

7.2.3 Reissuance of a Solicitation; and/or

7.2.4 Where appropriate, other equitable relief.

7.3 A Protest will be denied if the Protest lacks merit. A Protest lacks merit for reasons including but not limited to:

7.3.1 If the Protesting Party cannot prove by a preponderance of the evidence that the allegations in the Protest are true, then the Protest lacks merit and shall be denied;

7.3.2 A Protest which is simply written accusations without any supporting evidence whatsoever lacks merit and shall be denied;

7.3.3 A Protest which is not supported by credible evidence lacks merit and shall be denied;

7.3.4 A Protest based upon rules, laws, statutes, and/or regulations which are not binding upon WC lacks merit and shall be denied;

7.4 A Protest is invalid and shall be denied without a hearing if the Protest:

7.4.1 Is submitted by a party who is not permitted to submit a Protest under these procedures; and/or

7.4.2 Is submitted after the deadlines set forth herein.

7.5 The Protesting Party may not amend a Protest to include additional allegations or arguments to its Protest once the time for submitting a Protest has passed; however, if the Protesting Party amends its Complaint before the time for submitting a Protest has passed, then the submittal date shall also be amended to the date the amendment is submitted.

7.6 ED Review.

7.6.1 The ED, or a designee, shall conduct an initial review of the Protest within 5 business days after receiving the Protest to determine, in the ED's sole discretion, whether there is sufficient evidence to warrant suspending the Solicitation or contract resulting from the Solicitation. After the initial review, the ED must:

(a) Deny the Protest as invalid for the reasons set forth in Sections 6.5 herein.

(b) Grant the Protest if the ED determines, in the ED's sole discretion, that the Protest has sufficient merit to be granted; or

(c) Set the Protest for a hearing no later than 45 calendar days from the date the Protest was submitted. If the ED sets the Protest for a hearing, then the ED shall mail notice entitled "Notice of Hearing" to the Protesting Party within 5 days after completing the initial review of the Protest. The notice must state the date, time, and location of the hearing, as well as a reference to the hearing procedures set forth herein and Protesting Party's obligation to comply with the hearing procedures.

7.6.2 If the ED denies the Protest as invalid without further investigation or a hearing, then the ED shall mail notice of the ED's decision entitled "Executive Director's Informal Decision to Deny Protest As Invalid" to the Protesting Party, within 20 days after receiving the Protest, which shall state the reason the Protest was denied as invalid, as well as the Protesting Party's right to appeal the decision as set forth in Section 8.1.

7.6.3 Informal Investigation. If the ED has neither denied nor granted the Protest after the initial review, then the ED, shall designate an investigator to conduct an informal investigation of the Protest and to be WC's representative at the Hearing.

(a) The informal investigation may include, but is not limited to:

(i) Requiring the Protesting Party to provide sworn statements from witnesses to support the allegations in its Protest;

A The Investigator may only require the Protesting Party to provide sworn statements witnesses aligned with the protesting party (meaning (1) witnesses who in any way work, volunteer, serve, own, govern, etc. the Protesting Party, or (2) witnesses upon whose statements the Protest is based, unless the alleged statement is being used adversely against that witness).

B In no event shall the ED, or designee, require the Protesting Party to provide sworn statements of witnesses who have been accused by the Protesting Party of wrong doing.

(ii) Interviewing any witnesses named in the Protest, regarding the factual allegations allegedly surrounding that witness;

(iii) Analyzing documents attached to the Protest as evidence; and/or

(iv) Reviewing the rules, laws, statutes, etc. which were allegedly violated as cited in the Protest.

(b) The Protesting Party's unexcused failure to cooperate with the informal investigation in any way shall be documented by the Investigator and shall, in the ED's sole discretion, be considered as the Protesting Party's voluntary withdrawal of the Protest. The ED has sole discretion to determine whether the Protesting Party's failure to cooperate with the informal investigation is excusable. Failure to cooperate with the investigation includes but is not limited to the failure to:

(i) Provide sworn statements as requested;

(ii) Make the Protesting Party's witnesses available for interviews as requested;

(iii) Return the Investigator's, phone calls;

(iv) Respond to the Investigator's e-mails; and

(v) Appear for appointments with the Investigator.

(c) The informal investigation should be completed at least 10 days before the hearing.

7.7 Hearing Briefs. The Protest shall serve as the initial hearing brief.



7.7.1 Response to Protest. The investigator shall mail a Response to the Protest to the Protesting Party and shall submit the Response to the ED no later than 20 calendar days before the Hearing.

7.7.2 Reply to Response. The Protesting Party shall mail a Reply to the Response to the investigator and shall mail a separate copy of the Reply to the ED no later than 10 calendar days before the Hearing.

7.8 Settlement Conference. After informal investigation is complete the ED may, in the ED's sole discretion, conduct an informal settlement conference with the investigator and the Protesting Party in an effort to try resolve the Protest without conducting the hearing. The Protesting Parties unexcused failure to attend an informal settlement conference shall be deemed the Protesting Parties voluntary withdrawal of the Protest. The ED has sole discretion to determine whether the Protesting Party's failure to participate in the settlement conference is excusable.

7.8.1 If the Parties reach a resolution during the informal settlement conference then the Protesting Party shall voluntarily withdraw its Protest and the terms of the settlement shall be reduced to writing and signed by both parties **before the parties conclude the settlement conference. At the conclusion of a successful settlement conference the Protest is withdrawn and the Parties must conduct themselves in accordance with the settlement agreement.**

7.8.2 If the Parties cannot reach a resolution during the informal settlement conference, then the Parties will proceed with the hearing. Statements made during the settlement conference cannot be cited during the hearing to prove liability or wrong doing. However, evidence of wrong doing or liability cannot be protected from the hearing by reference the evidence during the settlement conference.

8. **Alternative Dispute Resolution.** If the ED and the Protesting Party agree, then the Parties may participate in alternative forms of dispute resolution of the Protest.

8.1 The Parties may be creative in deciding upon the forms of Alternative Dispute Resolution, which include but are not limited to:

8.1.1 Engaging in informal discussions between the Parties using individuals who did not substantially participate in the disputed Solicitation;

8.1.2 Engaging in mediation, where the Parties discuss the matter with a neutral third-party mediator who assists the Parties to resolve the Protest; or

8.1.3 Engaging in a binding mediation where a neutral third-party considers the party's positions and provides a resolution the Parties must follow.

8.2 In order to participate in Alternative Dispute Resolution, the Protesting Party must either waive the right to a hearing entirely, or at least:

8.2.1 Waive the right to have a hearing within 60 days after having submitted its Protest; and

8.2.2 Continue the hearing date to a later time.

## 9. Hearing Procedures

9.1 The hearing will be before the ED.

9.2 Attorneys.

9.2.1 The Investigator and the Protesting Party may each have one attorney or one assistant present at the hearing, however neither Parties' attorney or assistant may make oral arguments or examine witnesses during the hearing. A Party may not call the person designated as an assistant as a witness.

9.2.2 During the hearing, the Parties' attorney's or assistant's communications shall be limited to written communications to their respective Party.

9.2.3 Party's Speaking Representatives. During the hearing, the only people who may speak to the ED, present oral arguments and examine witnesses are investigator and the Protesting Party's designee (who must be an employee, owner, or board member of the Protesting Party and may not be a licensed or an unlicensed attorney, unless the Protesting Party has only one employee who is also the owner, and is also an attorney).

9.3 Witnesses

9.3.1 The Investigator and the Protesting Party must disclose (by mail or hand delivery) to each other and the ED a list of witnesses they intend to call no later than 10 days before the hearing.

9.3.2 Upon a timely objection from either Party, the ED shall not allow the Parties to call and examine witnesses who are not disclosed as required herein.

9.3.3 Upon a timely objection from either Party, the ED shall not allow the Parties to examine witnesses who are not cited within the Protest, Response, or Reply.

9.3.4 Upon a timely objection from WC, the Protesting Party shall not be allowed to examine a witness if the ED determines that the Protesting Party inexcusably failed to provide the Investigator a sworn statement from that witness.

9.3.5 All witnesses and parties shall be excluded from the hearing unless testifying, with the exception of the Party's Speaking Representatives as designated pursuant to Section 7.6.3 herein.

9.4 Arguments and Allegations

9.4.1 During the hearing the Protesting Party shall not be permitted to:

(a) Raise arguments and factual allegations of wrong doing which were not expressly raised in the Protest;

(b) Seek relief which was not expressly requested in the Protest; and

(c) Raise rebuttal arguments and factual allegations to the Investigator's arguments which were not expressly raised in the Reply.

9.4.2 During the hearing the Investigator shall not be permitted to raise defenses which were not expressly raised in the Response to the Protest.

9.4.3 The ED shall conduct the hearing informally, and may choose to conduct in the following order:

(a) First, ask for any objections to admitting the Protest, Response, and Reply (the "Briefs"), into the Hearing Record. So long as the documents were submitted according to these rules then they are admitted into the Hearing Record. Even though evidence may be part of the Hearing Record each Party must still present evidence from the Hearing Record to the ED for consideration while the other Party retains its right to object to the evidence.

(b) Second, ask for Objections to admitting any of the documents, exhibits, or statements which are attached to the Briefs as part of the Hearing Record into evidence. The Hearing Officer then rules upon any objections. Evidence for which an objection has been sustained will not be considered, although it remains part of the Hearing Record. The ED may consider evidence for which objections have been overruled and evidence to which no objection has been made. The arguments within the Protest, Response, or Reply (meaning the Briefs themselves) are not evidence; rather the Briefs are simply arguments for the ED's consideration.

(c) Third, ask for a list of witnesses each Party will call and for any objections to the witnesses.

(d) Fourth, allow the Protesting Party to make a general statement summarizing its Protest (the statement shall not be longer than 5 minutes) and the Investigator to make a general statement summarizing its Response to the Protest (the statement shall not be longer than 5 minutes).

(e) Fifth, allow the Protesting Party to examine witnesses; thereafter allow the investigator to cross-examine each witness. The Protesting Party may re-examine the witnesses after cross-examination, but only on those topics discussed in cross-examination.

(f) Sixth, allows the investigator to examine WC's witnesses; thereafter allow the investigator to cross-examine each witness. The Investigator may re-examine the witnesses after cross-examination, but only on those topics discussed in cross-examination.

(g) Seventh, allow the Protesting Party to make a general closing statement summarizing its position (no more than 10 minutes) and then allow the Investigator make a general closing statement summarizing its position (no more than 10 minutes).

(h) Eighth, conclude the hearing.

9.5 After conclusion of the hearing the ED shall prepare a written decision and deliver it to the Parties within 60 calendar days after the Protest was submitted.

10. **Appeal of an ED's Decision.** Either the Investigator or the Protesting Party may appeal any decision to grant or deny the Protest from ED. The Appeal shall be before a neutral Hearing Officer selected by WC who was not associated in any way with the Solicitation or the informal investigation and who is not under the direct control of the ED.

10.1 The Appeal is not a second review of the Protest and is not a second hearing. The Appeal is a review of the ED's decision. As such, the Hearing Officer shall not substitute its judgment for that of the ED as to the weight of evidence on a question of fact.

10.2 The Hearing Officer may remand or affirm the ED's decision or set it aside in whole or in part and require a new hearing with the ED if substantial rights of the Appealing Party have been prejudiced because the ED's final decision is:

10.2.1 In violation of constitutional or statutory provisions;

10.2.2 In excess of the statutory authority of the agency;

10.2.3 Made upon unlawful procedure;

10.2.4 Affected by other error of law;

10.2.5 Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or

10.2.6 Arbitrary or capricious or characterized by abuse of discretion.

10.3 The Appeal must be received by the ED, care of WC, no later than 10 calendar days after the Protesting Party receives the ED's decision. The Appeal must be delivered to the WC, care of the ED, by hand delivery with signed receipt acknowledging receipt of the Appeal, or a carrier service, so long as the delivery service provides hand delivery and a signed acknowledgment of receipt by the recipient. Appeals shall not be emailed or sent by facsimile; emailed or faxed Appeals are invalid and do not trigger the Appealing Party's appeal rights. If the Appeal is not timely delivered, then the Hearing Officer shall issue a written decision to the Appealing Party denying the Appeal as untimely and invalid.

10.4 The Appeal shall include:

(a) The name, address, e-mail address, and telephone number(s) of the Protesting Party;

(b) The Solicitation number and project title;

(c) A copy of the ED's written decision;

(d) The relief requested (e.g. remand for a new hearing of the Protest), however the Protesting Party shall never be entitled to monetary damages; and

(e) A detailed written description of the basis for the Appeal, including but not limited to:

(i) If the ED allegedly violated constitutional or statutory provisions, then the Appeal must state the law which was violated;

(ii) If the ED allegedly exceeded statutory authority of the agency, then the Appeal must state the statutory authority which was allegedly exceeded;

(iii) If the ED's decision is allegedly made upon unlawful procedure, then the Appeal must state the lawful procedure which should have been followed;

(iv) If the ED's decision is allegedly affected by other error of law, then the Appeal must state the other law which requires the decision be altered;

(v) If the ED's decision is allegedly clearly erroneous in view of the reliable, probative and substantial evidence on the whole record, then the Appeal must state specifically the ED's errors and cite the evidence which shows the decision is clearly erroneous; or

(vi) If the ED's decision is allegedly arbitrary or capricious or characterized by abuse of discretion, then the Appeal must set forth all the reasons and evidence in support of this allegation.

10.5 The Hearing Officer shall not consider new allegations or arguments which were not raised in the Hearing.

10.5.1 Any argument which the Appealing Party did not raise in the hearing shall be waived and cannot be made on appeal.

10.5.2 The Hearing Officer shall not consider any evidence submitted with the appeal which is not part of the Hearing Record, with the exception of evidence to support a claim that laws were violated or errors were made while actually preparing the decision which is the subject of the Appeal.

10.6 After the Appeal is timely submitted:

10.6.1 Within 10 calendar days after receiving the Appeal the ED shall deliver:

(a) A copy of the Appeal and the Hearing Record to the Hearing Officer and the Responding Party;

(b) A copy of the Hearing Record to the Appealing Party; and

(c) A Notice of Hearing stating the Hearing Date, (which shall be no later than 45 days from the date the appeal was received) Time, and Location, and to whom further briefing should be sent regarding the Appeal.

10.6.2 The Responding Party shall have 10 calendar days from the date the Appeal is received to deliver a Response to the Appeal to the Appealing Party and the Hearing Officer.

10.6.3 The Appealing Party shall have 5 calendar days from the date the Response is received to deliver a Reply to the Response to the Responding Party and the Hearing Officer. The Appealing Party may not raise new arguments in the Reply and may only rebut the arguments asserted in the Response.

10.7 The Hearing Officer shall not consider Response or Reply briefs which are not timely submitted.

10.8 The Hearing Officer shall not consider arguments during the hearing which are not expressly raised by a Party in their respective appellate briefs.

10.9 The Hearing

10.9.1 Attorneys.

(a) The Parties may each have one attorney or one assistant present at the hearing, however neither Parties' attorney or assistant may make oral arguments during the hearing.

(b) During the hearing, the Parties' attorney's or assistant's communications shall be limited to written communications to their respective Party.

10.9.2 Party's Speaking Representatives. During the hearing, the only people who may speak to the Hearing Officer and, present oral arguments are Parties' representatives (the Investigator and the Protesting Party's designee, who must be an employee, owner, or board member of the Protesting Party and may not be a licensed or an unlicensed attorney, unless the Protesting Party has only one employee who is also the owner, and is also an attorney).

10.9.3 The Hearing Officer's review of evidence shall be limited to the Hearing Record. Therefore witnesses shall not be examined during the hearing.

(a) Exception. The Hearing Officer may consider evidence and allow witness examination regarding claims that laws or rules were violated in the course of drafting the appealed from decision. Any such evidence, and the names of any such witnesses must be disclosed in the Appeal; otherwise the Hearing Officer shall exclude and not consider the proposed evidence and witnesses.

10.9.4 The Hearing. The Hearing Officer may conduct an informal hearing and may choose to;

(a) First, allow the Appealing Party to make oral argument in support of the appeal (no more than 20 minutes);

(b) Second, allow the Responding Party to make a response oral argument against the appeal (no more than 20 minutes);

(c) Third, allow the Appealing Party to respond only to the argument raised by the Responding Party; and

(d) Fourth, conclude the Hearing.

10.9.5 After conclusion of the Hearing, the Hearing Officer shall deliver a written decision to the Parties and the ED within 60 calendar days of the appeal being submitted.

## 11. Appeal of the Hearing Officer's Decision

11.1 WC does not offer appeals of Hearing Officer decisions. Consequently, the Hearing Officer's decision is WC's final decision.

11.2 WC and the Protesting Party Agree to exclusively limit any and all court or judicial intervention or consideration of the Protesting Party's complaints, protests, appeals, etc. of any Solicitation judicial review as governed by NRS § 233B.130 through NRS § 233B.150.

11.2.1 The Parties must exhaust all administrative remedies and receive a Hearing Officer's decision before a Party may request judicial review. The Protesting Party's failure to exhaust all of its administrative remedies as set forth herein shall be a waiver of the Protesting Party's right to file a complaint, appeal, protest, petition etc. relating to a Solicitation to any court.

11.2.2 Only the Hearing Officer's decision is subject to judicial review.

11.2.3 WC and the Protesting Party expressly waive any rights to any court/judicial intervention or consideration of any complaints, protests, appeals, etc. relating to any Solicitation, with the exception of judicial review as outlined herein.

11.3 The Protesting Party must exhaust all administrative remedies and receive a Hearing Officer's decision before the Protesting Party may submit a complaint, appeal, protest, etc. relating the a Solicitation to any state or federal agency. The Protesting Party's failure to exhaust all of its administrative remedies as set forth herein shall be a waiver of the Protesting Party's right to submit its complaint, appeal, protest, etc. relating to a Solicitation to any state or federal agency.

## 12. Waivers

12.1 The Protesting Party agrees it must first exhaust all administrative remedies as outlined herein by obtaining a Hearing Officer's decision before it may subject its complaints, appeals, protests, etc. relating to any Solicitation to any judicial review or review by a state or federal agency. Therefore, the Protesting party expressly waives any rights it may have to subject its complaints, appeals, protests, etc. relating to any Solicitation to any judicial review or review by a state or federal agency before the Protesting Party obtains a Hearing Officer's decision. The Protesting Party acknowledges that the failure to exhaust the administrative remedies set forth herein constitutes of waiver of all the Protesting Party's rights to dispute and/or continue to dispute any issue relating to the Solicitation.

12.2 WC and the Protesting Party expressly waive any rights they may have under any law and in any forum to be awarded or to recover any monetary damages, including legal fees and costs, from the other as a result of the Protesting Party's complaints, appeals, protests, etc. relating to any Solicitation, unless such award is made as a judicial sanction for pursuing a frivolous claim or defense.

12.3 WC and the Protesting Party agree the only court action which may be filed regarding the Protesting Party's complaints, appeals, protests, etc. relating to any Solicitation is to file a Petition for Judicial Review of the Hearing Officer's Decision pursuant to NRS § 233B.130 through NRS § 233B.150, and WC and the Protesting Party expressly waive all other rights they may have under any law to seek other court relief.

12.4 WC and the Protesting Party agree and expressly waive any right the prevailing party may have to be awarded attorney fees and costs and/or to recover or collect attorney fees and costs from the non-prevailing party as the result of a decision from any forum.

13. **Submission of Disputes to federal and state agencies.**

13.1 After the Protesting Party has exhausted all the administrative remedies outlined herein, the Protesting Party may submit its dispute for review by an appropriate state or federal agency pursuant to applicable law.