
HQAMC-Level Protest Procedures Program

A protest to a U.S. Army Materiel Command forum is a “protest to the agency,” within the meaning of FAR 33.103. The HQAMC-Level Protest Program is intended to encourage interested parties to seek resolution of their concerns within AMC as an alternative dispute Resolution forum, rather than filing a protest with the Government Accountability Office or other external forum. *These procedures apply to the HQAMC-Level Protest Program only.*

Interested Parties:

- An interested party is an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.
- Federal Government employees, unions or installations are not considered interested parties for the purposes of filing a HQAMC-level protest.
- Private-sector offerors on acquisitions subject to **OMB Circular No. A-76** are also not considered interested parties for purposes of filing a HQAMC-level protest.

HQAMC-level protest procedures:

- **Protest decision authority:** The AMC command counsel is designated as the HQAMC protest decision authority. This authority is delegable to the AMC Deputy Command Counsel.
- **Time for filing a protest:** A HQAMC protest shall be filed in accordance with the timeframes set out in FAR 33.103(e). HQAMC office hours are 8 AM to 4:30 PM Central Standard Time. Time for filing any document expires at 4:30 PM (CST) on the given day.
- **Election of forum:** After an interested party protests an AMC procurement to HQAMC and while that protest is pending, the protester agrees not to file a protest with the GAO or other external forum. If a protest is filed with an external forum on the same solicitation as the HQAMC-level protest, the HQAMC-level protest will be dismissed.
- **Required information:** *Protests must be signed by an authorized representative of the protester.* Protester’s name, address, telephone number, fax number, solicitation or contract number, identity of the contracting activity and the contracting officer’s name, detailed statement of all legal and factual grounds for protest (*mere disagreement with the decisions of contracting officers does not*

constitute grounds for protest), copies of all relevant documents, request for a ruling, request for relief.

- **Where to file:** An agency protest may be filed with either the contracting officer or to HQAMC.
- **Protest to HQAMC shall be filed at:**
Headquarters U.S. Army Materiel Command
Office of Command Counsel-Deputy Command Counsel
4400 Martin Road
Rm: A6SE040.001
Redstone Arsenal, AL 35898-5000
Fax: (256) 450-8840 or e-mail:
usarmy.redstone.usamc.mbx.protests@mail.mil
- **Protest to Contracting Officer shall be filed at:**
Appropriate installation address or see FAR Clause 52.233-2 in section L for address.

Processing of HQAMC-level protests:

- Within 20 days after the protest is filed, the contracting officer, with the assistance of legal counsel, shall file with the HQAMC Office of Command Counsel (ATTN: AMCCC-PL) one copy of an administrative report in response to the protest.
- Reports shall be sent by fax, over-night mail or hand-delivered to ensure timely receipt.
- **The HQAMC protest decision authority will issue a written decision within 45 days of the protest filing.** If circumstances require a longer time period to issue a written decision on a protest, the protestor will be notified in writing concerning any extension. The written decision issued by AMC shall be binding on AMC and its contracting activities.

Remedies:

The HQAMC protest decision authority may grant any one or combination of the following remedies:

- Terminate the contract
- Re compete the requirement

- Issue a new solicitation
- Refrain from exercising options under the contract
- Award a contract consistent with statute and regulation
- Pay appropriate costs as stated in FAR 33.102(b)(2)
- Other remedies as the HQAMC protest decision authority determines necessary to correct a defect

Effect of protest on award and performance:

- **Protests before award:** When a protest is filed with HQAMC prior to award, a contract may not be awarded unless authorized by the Army Contracting Command (ACC) Commanding General (CG), in accordance with FAR 33.103(f)(1). The ACC CG may authorize contract award, notwithstanding the protest, upon a written finding that contract performance will be in the best interests of the United States; or urgent and compelling circumstances that significantly affect the interests of the United States will not permit waiting for a decision from the HQAMC protest decision authority. This authority may be delegated to the ACC Deputy Director without the power to delegate further.
- **Protests after award:** When a protest is filed with HQ AMC within ten days after award, or within five days of debriefing for any debriefing that was requested as required by FAR 15.506, the contracting officer shall suspend performance. The Army Contracting Command (ACC) Commanding General (CG), in accordance with FAR 33.103(f)(3), may authorize contract performance, notwithstanding the protest, upon a written finding that contract performance will be in the best interests of the United States; or urgent and compelling circumstances that significantly affect the interests of the United States will not permit waiting for a decision from the HQAMC protest decision authority. This authority may be delegated to the ACC Deputy Director without the power to delegate further.

Alternative Dispute Resolution Program

The objectives of the AMC Alternative Dispute Resolution Program are to adopt an interdisciplinary approach to address disputes and dispute resolution, to design processes, to enable the parties to foster creative, acceptable solutions, and to produce expeditious decisions requiring fewer resources than formal litigation.

What is ADR?

ADR is an inclusive term used to describe a variety of joint problem-solving processes that present options in lieu of adjudicative or adversarial methods of resolving conflict. ADR encourages the consideration of creative solutions to disputes that are unavailable in traditional dispute resolution forums. It encourages communication between the parties, and focuses on the parties' real interests, rather than on their positions or demands, enabling them to address the real concerns underlying the conflict.

Who handles ADR?

The AMC commander designated the Office of the Command Counsel as the AMC Senior Advisor for ADR and asked that the major subordinate commanders designate their chief counsel as the MSC senior advisor for ADR.

Web Address: <http://www.amc.army.mil/amc/commandcounsel.html>