

	STATE OF ILLINOIS CHIEF PROCUREMENT OFFICER - HIGHER EDUCATION	
	Topic: Procurement Protest Processing Procedure	Number: 2014-3
	Effective Date: December 1, 2014	Approved by: CPO <i>[Signature]</i>
	New ☒ Revises ☐ Replaces ☐ Supplements ☐	
	Statute Cite: 30 ILCS 500/20-75	Rule Cite: 44 Ill. Adm. Code 4.5550

SCOPE

The Illinois Procurement Code (30 ILCS 500/20-75) and the Higher Education Procurement Rules (44 Ill. Adm. Code 4.5550) provide the legal basis and basic procedural requirements for protesting and processing protests.

This procedure documents the internal activities and shows who has responsibility at various stages of the process. This procedure also establishes a "typical" response time for each step in the process. These timeframes are identified as "typical" to reflect they are not mandatory, but are more in the nature of a goal.

This applies to protests received on or after the effective date.

PROTEST PROCESSING RESPONSIBILITIES

Chief Procurement Officer (CPO)

The CPO makes the final decision on all protests.

Protest Review Office (PRO)

EEC Legal staff shall serve as the Protest Review Office.

The Protest Review Office receives protests, obtains information necessary to consider legal issues and prepares a report with a recommendation to the CPO.

State Purchasing Officer (SPO)

The SPO is responsible for administering the first stages of the protest process, reviewing the draft response prepared by the university, and making a recommendation to the PRO.

University Purchasing Director (UPD)

The UPD is responsible for facilitating the university's draft response to the points of the protest including any needed documentation and the university's recommendation to uphold, deny or take other action in relation to the protest.

SUBMISSION OF PROTESTS

Each solicitation document shall include information directing protests to the PRO.

Protest Review Office
Room 513 Stratton Office Building
401 S. Spring Street
Springfield, IL 62706

PROCESSING PROTESTS

Protests will be processed in accordance with the following steps. This procedure identifies typical time periods for taking action. The goal is to act quicker whenever possible.

Except as approved by the CPO in accordance with Procurement Rule 4.5550e, the university shall not enter into a contract until the time for submitting a protest has passed; and if a protest has been received, until the protest has been resolved.

1. PRO

Receive, date/time stamp the protests and create a file.

Determine whether the protest can be resolved immediately by the CPO (e.g., if the protest was directed to the wrong CPO office, was not timely, assumed a legal requirement that was not applicable such as a claim that hearing prior to a small purchase). Otherwise:

Send acknowledgment of receipt of protest to protesting party.

Transmit the protest to the SPO with copy to the UPD and CPO, along with any special requests, such as for specific information or expedited handling.

(This should typically occur no later than the next day after receipt of the protest.)

2. SPO in consultation with UPD

a. Protests before opening. Review protest and respond to PRO as instructed.

Determine whether the solicitation opening date should be extended or the solicitation cancelled.

The SPO may authorize an extended opening date to allow time to address the protest, if the university needs to make adjustments to the solicitation in order to address points raised in the protest, or for other similar reasons. SPO will inform the PRO of the decisions and actions.

If the issues raised in the protest cannot readily be cured by amendment to the solicitation, or for other reasons that promote the interests of the university, the SPO may recommend to the PRO that the solicitation be cancelled.

b. Protests after opening and before award. Review protest and respond to PRO as instructed.

If appropriate, contact bidders/offerors before expiration of the time for acceptance of their bid/proposals, to extend the time for acceptance to avoid the need for re-solicitation.

c. Protests after award. Review protest and respond to PRO as instructed.

Inform the vendor whose award is being protested of the protest and the consequences of the protest including fact that the award is stayed pending resolution of the protest.

Suspend or adjust procurement/contract activities to accommodate the need to address the protest.

If the university needs expedited processing of the protest, the UPD shall inform the SPO in writing with the reasons necessitating an expedited process.

(This should typically occur no later than two days after receipt of the protest notice from the PRO.)

3. UPD

Gather information necessary to address the protest. Prepare a response to each point of the protest in consultation with appropriate university staff. UPD will forward the response and relevant material to SPO for review.

(This should typically be sent no later than ten days after receipt of the protest notice from the PRO.)

4. SPO

Forward UPD's response with SPO comments and recommendation to PRO. May work with UPD to clarify or amplify the response.

(This should typically be sent no later than next day after receipt of information from the UPD.)

5. PRO

Review draft response to protest submitted by SPO. May request that the SPO provide additional information or documentation. Prepare legal position paper addressing each point of the protest and prepare draft of recommended response.

(This should typically occur no later than five days after the later of receipt of draft response or follow-up comments from the SPO.)

6. CPO

Prepares final response to the protest and distribute to protesting party, other affected vendors, SPO, UPD and PRO.

(This action should typically occur no later than three days after receipt of a copy of the PRO's recommendation and draft response.)

7. SPO and UPD

After resolution of the protest, take actions appropriate to the resolution of the protest (e.g., cancel, rebid, award, execute contract).

8. CPO

Respond to any follow-up inquiry from the protestor or other interested party.

PROCUREMENT FILE AND REPORT

The CPO shall maintain a file of protests and responses, including a log showing pertinent information and statistics regarding protests.

Information regarding resolved protest may be published on the CPO website and the Bulletin.

The CPO shall produce an annual report of information and statistics regarding protests resolved during the immediately preceding fiscal year.

PROTEST-RELATED FORMS

The following forms are used to inform others about the protest and to obtain and memorialize pertinent information.

- Transmittal to SPO

- Protest Notification to Awardee

- Sample Protest Denial Letter

- Sample Protest Approval Letter

- Sample Protest Resolution Notification to Awardee

ACKNOWLEDGMENT OF RECEIPT OF PROTEST

Date

Protesting Party

Address

RE: Protest of Solicitation # (Solicitation Name and University)

Dear _____:

This acknowledges receipt of your protest.

If we have any questions or need additional information from you, we will contact you directly.

The protest process typically takes approximately 21 days from start to final decision. However, the actual time to complete the process may be shorter or longer depending on the number and complexity of the issues and the ease of compiling and analyzing the relevant information.

Once all information necessary to address the protest has been gathered and analyzed, my office will make a recommendation to the Chief Procurement Officer. The Chief Procurement Officer will make the final decision and will notify you of the decision.

If you have any questions, my contact information is shown below.

Sincerely,

Protest Review Office

M E M O R A N D U M

PROCUREMENT PROTEST TRANSMITTAL

TO: State Purchasing Officer
Cc: Chief Procurement Officer

FROM: Protest Review Office

DATE:

SUBJECT: Procurement Protest
Submitted by:
Solicitation:

The above named person submitted a protest of the subject solicitation. A copy of the protest and acknowledgment of receipt is attached. Please review this protest and immediately take the following actions:

Inform all interested university parties of the protest; and

Suspend or adjust procurement/contract activities to accommodate the need to address the protest. Note that according to the Higher Education Procurement Rules, submission of a protest stays the award until such time as the protest is favorably resolved.

You will need to provide my office with a response to each of the points raised and a recommendation. We will also need a copy of any documentation necessary to support the response and recommendation. We would like to have the response within seven days of the date of this memo. If you cannot meet this timeframe, please let us know.

After reviewing the material we may need to gather additional information before preparing a recommendation to the Chief Procurement Officer who will make the final decision.

Please contact me if you have any questions.

Attachment (copy of protest, acknowledgment of receipt of protest)

PROCUREMENT PROTEST NOTIFICATION TO AWARDEE

Date

Awardee name

Address

RE: Protest of Solicitation # (Solicitation Name and University) by (Name of "protestor")

Dear _____:

The above named person submitted a protest of the subject solicitation. In accordance with the Higher Education Standard Procurement Rule 4.5550, the award made to your firm is stayed and a redetermination of the award will be made after resolution of the protest. This redetermination will be made by the Chief Procurement Officer after considering the protest and the recommendation of the Protest Review Office.

If we require your assistance in responding to the protest, we will contact you. We will provide you with a resolution as soon as possible. The protest process typically takes approximately 21 days from start to final decision. However, the actual time to complete the process may be shorter or longer depending on the number and complexity of the issues and the ease of compiling and analyzing the relevant information.

If you have any questions, my contact information is shown below.

Sincerely,

State Purchasing Officer

cc: Protest Review Officer
University Purchasing Director

SAMPLE DENIAL LETTER

Date

Protester name

Address

RE: Solicitation # (Solicitation Name and Agency)

Dear Protester:

Thank you for your comments on the above solicitation. However, your protest is denied because ...

You have shown no violation of the Procurement Code, the associated rules or of the solicitation itself. Accordingly, and for the reasons stated above, the protest is denied.

Please contact me (contact information below) if you have any questions.

Sincerely,

Chief Procurement Officer

cc: Protest Review Officer
State Purchasing Officer
University Purchasing Director

SAMPLE APPROVAL LETTER

Date

Protester name

Address

RE: Solicitation # (Solicitation Name and University)

Dear Protester:

Thank you for your comments on the above solicitation. As a result of your protest, we have decided to uphold your protest and the solicitation will be (cancelled, re-bid, etc.).

Please contact me (contact information below) if you have any questions.

Sincerely,

Chief Procurement Officer

cc: Protest Review Officer
State Purchasing Officer
University Purchasing Director

**PROCUREMENT PROTEST RESOLUTION
NOTIFICATION TO AWARDEE**

Date

Awardee name
Address

RE: Protest of Solicitation # (Solicitation Name and Agency) by (Name of "protestor")

Dear _____:

In accordance with the Higher Education Standard Procurement Rule 4.5550, we have considered the subject protest. We have decided to????????????????????.

If you have any questions, my contact information is shown below.

Sincerely,

Chief Procurement Officer

cc: Protest Review Officer
 State Purchasing Officer
 University Purchasing Director