

	STATE OF ILLINOIS CHIEF PROCUREMENT OFFICER - HIGHER EDUCATION	
	Topic: Procurement Protest Processing Procedure	Number: 2019-02
	Effective Date: 9/3/19	Approved by: 
	New ☐ Revises ☐ Replaces ☒ X Supplements ☐ 2014-3	
	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 for those activities. This procedure also establishes a "typical" response time for certain activities. 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.

CHIEF PROCUREMENT OFFICER (CPO)

The Chief Procurement Officer will make the final decision on all protests.

The Chief Procurement Officer, directly or through a designee in the CPO Office, will perform the administrative functions associated with receiving, processing, and resolving protests.

The CPO may appoint one or more members of the Executive Ethics Commission (EEC) Legal Staff as a Protest Review Officer (PRO) and may refer any given protest to the PRO. The end result of any such appointment is a recommendation by the PRO on disposition of the protest after reviewing the protest, considering the university's response to the protest, and taking into account any other documentation deemed necessary to producing the recommendation.

The CPO may resolve any protest without referral to a PRO. However, the CPO's intent is to have most protests reviewed by and recommendation made by EEC Legal Staff as PRO. If EEC Legal Staff as PRO have questions or need additional information, all affected parties must respond in order to have an accurate and timely response to the protest.

All communications to/from the PRO shall be copied to the CPO.

SUBMISSION OF PROTESTS

Each solicitation document shall include information directing protests to:

CPO/Protest Review Office
Room 520 Stratton Office Building
401 S. Spring Street
Springfield, IL 62706
eec.cpohe@illinois.gov

PROCESSING PROTESTS

Protests will be processed in accordance with the following steps. Generally, the CPO will act on protests that can be resolved immediately, typically for administrative reasons (e.g., if the protest was directed to the wrong CPO Office, was not timely, or assumed a legal requirement that was not applicable, such as a claim a small purchase must be bid).

The CPO, State Purchasing Officers (SPO), University Purchasing Directors (UPD), and EEC Legal Staff acting as PRO have roles in processing protests.

Except as approved by the CPO in accordance with Higher Education Procurement Rule 4.5550(e), 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.

	Procedure Steps	Responsible Party
1.	Receipt of Protest (these activities occur within 2 business days)	
1.1	Create a file, whether electronic or paper, based on how the protest was initially received. Date/time stamp the protest if received in paper form.	CPO
1.2	Determine if protest is timely and in proper form; then CPO to determine to act or refer to EEC Legal Staff (as PRO) for review and recommendation.	CPO
1.3	Send acknowledgement of receipt of protest to protesting party.	CPO
1.4	Send a copy of the protest to the SPO and UPD along with any specific questions or request for information.	CPO
1.5	Notify awarded vendor of protest and state the potential consequences of the protest, including that award is stayed pending resolution. Include copy of protest with the notification.	CPO
1.6	If protest occurs before opening, determine if solicitation opening date should be extended or if solicitation should be cancelled. Take appropriate action and inform CPO of action taken.	UPD/SPO
1.7	If protest occurs after opening, but before award, CPO to determine appropriate action and inform UPD/SPO.	CPO
1.8	If protest occurs after award, suspend or adjust procurement/contract activities to accommodate time to address protest.	UPD/SPO
2.	Prepare Draft Response to Protest (these activities occur within 8 business days after receipt of notice of protest)	
2.1	Review protest and gather information necessary to prepare a response.	UPD/SPO
2.2	Draft response, addressing each point of the protest.	UPD
2.3	Send draft to SPO along with all relevant material.	UPD
2.4	Review draft and add additional comments and forward to CPO (and to EEC Legal Staff as PRO if the matter has been referred).	SPO

2.5	If expedited processing is needed, inform the CPO in writing and provide reasons for the expedited need.	UPD/SPO
3.	Respond to Protest (these activities occur within 10 business days of receipt of draft response)	
3.1	Review draft university response. Request additional information or documentation from university if needed.	CPO/(PRO when appropriate)
3.2	If referred to EEC Legal Staff as PRO, prepare legal position paper addressing each point of the protest and include a recommended disposition of the protest.	PRO
3.3	Prepare final response to the protest and distribute to all appropriate parties.	CPO
3.4	Publish protest determination in the Bulletin as a public document attached to the solicitation/award notice.	UPD/SPO
4.	Finalize Procurement	
4.1	Upon resolution of the protest, take appropriate action (e.g. cancel, rebid, award, etc.)	UPD/SPO
4.2	Respond to any follow-up inquiries from affected parties.	CPO/SPO/UPD
4.3	Maintain all protest-related documentation in procurement file. Provide to CPO when requested.	UPD
4.4	Maintain file of protest and response documentation.	CPO

PROTEST-RELATED COMMUNICATIONS

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

- Acknowledgement of Receipt of Protest
- Procurement Protest Transmittal to SPO & UPD
- Procurement Protest Notification to Awardee
- Denial Notification
- Approval Notification
- Procurement Protest Resolution Notification to Awardee

ACKNOWLEDGMENT OF RECEIPT OF PROTEST

Date

Protesting Party
Address

RE: Protest of Solicitation # (Solicitation Name & 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 20 business 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.

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,

Chief Procurement Office

PROCUREMENT PROTEST TRANSMITTAL

TO: State Purchasing Officer
University Purchasing Director

FROM: Chief Procurement Office

DATE:

SUBJECT: Procurement Protest
Submitted by:
Solicitation:

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

Inform all interested parties within the university, 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. After reviewing the material, we may need to gather additional information before issuing the decision. We would like to have a draft response as soon as possible, but within eight business days of the date of this memo. If you cannot meet this timeframe, please let us know.

Please contact me if you have any questions.

Attachment (Copy of Protest)

PROCUREMENT PROTEST NOTIFICATION TO AWARDEE

Date _____

Awardee Name _____

Address _____

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

Dear _____:

The above-named person submitted a protest related to 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 may be made after resolution of the protest. This redetermination will be made by the Chief Procurement Officer.

Attached is a copy of the protest. Because your firm is the awardee, you are an interested party per Rule 4.5550(d)(3). We invite you to respond to each of the points of the protest and to send those responses to us within five business days of receipt of this letter. If we require additional 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 20 business 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,

Chief Procurement Office

cc: State Purchasing Officer
University Purchasing Director

Attachment (Copy of Protest)

DENIAL NOTIFICATION

Date

Protester Name

Address

RE: Solicitation # (Solicitation Name and University)

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.

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

Sincerely,

Chief Procurement Officer

cc: State Purchasing Officer
University Purchasing Director

APPROVAL NOTIFICATION

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.).

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

Sincerely,

Chief Procurement Officer

cc: State Purchasing Officer
University Purchasing Director

**PROCUREMENT PROTEST RESOLUTION
NOTIFICATION TO AWARDEE**

Date

Awardee Name
Address

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

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: State Purchasing Officer
 University Purchasing Director

