

PROCUREMENT SERVICES POLICY 24 PROTEST OF AWARD OR VENDOR DISPUTE

The University of North Carolina at Greensboro

Approved by Paul Forte, Interim AVC for Finance, August 4, 2021

Revised August 4, 2021

1. Purpose

This document addresses protests of awards and vendor disputes.

2. Scope

This policy applies to all University departments, units and divisions.

3. Definitions and Roles and Responsibilities

3.1 Definitions

Solicitation: A request to suppliers to make submissions to a purchasing organization. This can be in the form of a Request for Proposal (RFP), Request for Quote (RFQ) or Invitation for Bid (IFB)

Procurement: The act of obtaining or buying goods and services. Organizational function that includes specification development, value analysis, supplier market research, negotiation, buying activities, and contract administration.

Protest: a written objection by an interested party to a solicitation for offers as to matters which may affect a proposed award.

Contract: A binding agreement between two or more persons or parties for the supply of goods or services. A legally enforceable written or oral agreement between two or more competent parties that defines a job or service to be performed.

Dispute: A written objection to issues which may administratively arise during the performance of a purchase order.

Protestor: an actual or prospective offeror/bidder whose direct economic interest would be adversely affected by an award or by a failure of an award to be made.

Request for Information (RFI): The RFI is an informal document used to request information from suppliers about products or services when there is a lack of information readily available to write an adequate solicitation document. The RFI is not a solicitation for procurement.

4. Policy

In the preparation of requirements and specifications and the solicitation of such, all efforts should be made to avoid creating any conditions which may contribute to the protest of an award. Should a protest occur, it is the University's policy to resolve protests effectively at the lowest administrative level possible and to maintain integrity and confidence in the University's purchasing processes. The North Carolina State Agency Purchasing Manual provides general guidance for protest procedures. Additionally, [North Carolina General Statute 150B-22](#) prescribes that any protests, or disputes, should be settled through informal procedures in preference to formal administrative procedures which incur additional costs and time. The protest of award procedures of the University adheres to these principles and [North Carolina Administrative Code 01 NCAC 05B.1519](#) and [General Statute 150B-43, Article 4](#). Note: The University is exempted from the procedures prescribed for 'contested decisions' and the Office of Administrative Hearings by the [Administrative Procedures Act, Article 3 per General Statute 150B-1\(f\)](#). "Protest", as used in this Policy, means a written objection by an interested party to a solicitation for offers as to matters which may affect a proposed award. "Dispute", as used in this Policy, is a written objection to issues which may administratively arise during the performance of a purchase order. "Protestor," as used in this Policy, means an actual or prospective offeror/bidder whose direct economic interest would be adversely affected by an award or by the failure of an award to be made.-To be considered a valid "protest", the objection must be submitted in writing to the University as specified herein, and no other party, and adhere to the guidelines of the University protest procedures.

Conditions for Protest

Protests of award generally result from the existence of specifications or terms and conditions in a solicitation assessed by a prospective vendor or contractor to be preferential or unobtainable. Protests may also result from the challenge of an award to a specific vendor or contractor which is assessed by another prospective vendor or contractor as not having the capacity and/or capability to perform the award as specified. Protests may be filed for cause for conditions which are apparent in the solicitation no later than thirty (30) consecutive calendar days from the date of the protested award. Where a protest is filed prior to an award, the protest shall not be considered, the award made, and the interested party so informed in writing. To be fully considered, protests must clearly contain and address the following elements:

- Name, address, and telephone number of protestors.
- Solicitation number, or Purchase Order number, and date affected by the protest.
- A detailed statement of the factual grounds for the protest accompanied by copies of all relevant documents. This statement must contain specific sound reasons and attach any supporting documentation for why the party is protesting an award.
- A concise statement as to the form of relief requested by the protestor.

Vendor/Contractor Dispute

Disputes may arise during the performance of a Purchase Order. Such a grievance typically results from decisions made while administering a Purchase Order, are initiated by the vendor or contractor performing the order and represent the lack of agreement by the vendor or contractor in a decision rendered by the University.

To be formally considered, the dispute must be submitted in writing as a claim and demonstrate a demand or assertion seeking, as a matter of right, the payment of monies, the adjustment or specific interpretation of the Purchase Order's terms and conditions, or some other form of relief.

"Claims" will be addressed as prescribed by Protest Resolution. The principles of protest handling will be applied in claims resolution. Claims regarding the text of a Purchase Order or its performance will be addressed using the following 'order of precedence': (a) the Proposal Form (excluding the specifications), (b) the Representations, (c) clauses, provisions and terms and conditions, (d) other documents and attachments, (e) the specifications, and (f) the drawings.

5. Compliance and Enforcement

The Director of Procurement Services is responsible for ensuring compliance with this policy.

5.1 Supporting Documents

[North Carolina Procurement Manual, Section 8.1\(c\)\(1\)\(2\)\(3\) Protest Procedures](#)

[\(P&C\) North Carolina Procurement Manual, Section 8.2, Protest Procedures \(SITP\)](#)

[North Carolina General Statute 150B-22](#)

[North Carolina Administrative Code 01 NCAC 05B.1519, Protest Procedures](#)

6. Approval Authority

This policy should be approved by the Interim Associate Vice Chancellor for Finance.

6.1 Contacts for Additional Information and Reporting

- Responsible Executive: Michael Logan, Director of Procurement Services, (336)334-4104, mflogan@uncg.edu
- Responsible Administrator: Richard Fleming, Assistant Director of Procurement Services, (336)334-3078, rrfleming@uncg.edu