



Protest Procedure

1. **Right to Protest:** Only bidders/proposers that submit bids/proposals are eligible (have “standing”) to submit a protest.
2. **Posting:** The Purchasing Department shall post a recommendation of award on the ITB or RFP/Q dedicated website.
3. **Notification of Intent to Protest:** A formal written Intent to Protest must be filed no later than 72 hours after the posting date of the award recommendation.
4. **Protest Submission:** A formal written Protest must be filed no later than 5:00 p.m., local time, ten (10) business days after the posting date of the award recommendation, unless the aggrieved person did not know or could not know, with the exercise of diligence, the facts giving rise to the protest prior to any of the aforementioned events. The aggrieved person has the burden to show he or she did not know and could not, with the exercise of diligence, have known of the facts giving rise to the protest. The bidder, proposer, offeror or contractor has the responsibility to contact the Purchasing Department and request the award recommendation results. Failure to contact the Purchasing Department for the award recommendation results to determine if a bid protest is warranted is considered lack of due diligence and a protest received after the ten (10) business days specified will not be considered.
5. The formal written Protest shall:
 - a. Identify the protesting party and the solicitation involved;
 - b. Include a clear statement of the grounds on which the Protest is based;
 - c. Refer to the statutes, laws, ordinances, or other legal authorities which the protesting party deems applicable to such grounds; and,
 - d. Specifically request the relief to which the protesting party deems itself entitled by application of such authorities to such grounds.
6. The protesting party shall mail a copy of the formal written Protest to the recommended awardee(s) and shall provide the Purchasing Department with the original letter.
7. **Receipt of Protest:** A formal written Protest is considered filed with the College when it is received by the Purchasing Department. Accordingly, a Protest is not timely filed unless it is received by the Purchasing Department within the times specified in item 4 above. Failure to file a formal written Protest within the time period specified shall

result in relinquishment of all rights of protest by the vendor and abrogation of any further bid protest proceedings.

8. **Standing:** Upon receipt of a timely formal written Letter of Protest, the Director of Purchasing shall review the Letter of Protest, and determine whether the protesting party has standing regarding the merit of the Protest itself.
9. **Written Decision:** The Director of Purchasing will render a written decision based on the merits of the Letter of Protest to the protesting party, or in the case of a RFP/Q, may determine that it is appropriate to re-convene the Evaluation Team for them to re-consider their recommendation. The Director of Purchasing's or Evaluation Team's decision shall be final and conclusive unless, within five (5) business days from the date of receipt of the decision, the protesting party delivers a written notice of appeal to the Director of Purchasing.
10. **Protest Hearing:** Once a timely appeal has been received, the Director of Purchasing shall schedule a Protest Hearing, and ensure that all concerned parties are contacted and instructed in writing as to the location, time and date set for the hearing. The Director of Purchasing shall serve as the hearing officer and shall chair the hearing. The Protest Hearing is a public meeting and shall be posted on the dedicated webpage.

11. **Agenda:** The following agenda shall be followed:

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| a. Statement of Facts by the Protestant: | 15 minutes |
| b. Statement of Facts by the firm which has been recommended for award: | 15 minutes |
| c. Statement of Facts by any other interested party: | 15 minutes |
| d. Rebuttal by the Protestant: | 10 minutes |
| e. Rebuttal by the firm which has been recommended for award: | 10 minutes |
| f. Rebuttal by any other interested party: | 10 minutes |
| g. Questions from the Hearing Officer: | no time limit |
| h. Final Statement by the Protestant | 5 minutes |
| i. Final Statement by the firm which has been recommended for award: | 5 minutes |

- j. Final Statement by any other interested party: 5 minutes

The formal rules of civil procedure and evidence will not be applied.

12. **Authority to Resolve:** The Director of Purchasing shall attempt to resolve the Protest in a fair and equitable manner, and shall render a written decision to the protesting party within ten (10) business days from the date of the Protest Hearing.
13. **Appeal of Director of Purchasing's Decision:** The Director of Purchasing's decision shall be final and conclusive unless within five (5) business days of issuance of the written decision, the protesting party delivers a written notice of appeal to the Director of Purchasing. The Director of Purchasing shall forward the written Appeal to the Vice President for Administration/CFO.
 - a. The Vice President for Administration/CFO shall have the authority to review the appeal and make a recommendation to the President.
 - b. The Vice President for Administration/CFO, at his/her discretion, may conduct a hearing in the same manner as described in section 10 above. Should a hearing not be held, the decision of the Director of Purchasing shall be deemed accepted.
 - d. The Vice President for Administration/CFO shall submit a written recommendation to the President.
 - e. The President shall review the appeal, and at his/her discretion, may hold a hearing in accordance with section 10 above. If no hearing is held, it will be presumed that the President concurs with the Vice President for Administration/CFO's recommendation, and the decision shall be the final and conclusive administrative action. If a hearing is held by the President, the President's decision upon completion of the hearing shall be final and conclusive.
14. **General:** These protest procedures shall be the sole remedy for challenging an award of ITB or RFP/Q. Bidders and proposers are prohibited from attempts to influence, persuade or promote through any other channels or means. Such attempts shall be cause for suspension. The time limits in which protests must be filed as specified herein may be altered by specific provisions in the ITB or RFP/Q.
15. **Stay of Procurements During Protests:** In the event of a timely formal written Protest, the Director of Purchasing shall not proceed further with the award of the contract unless a written determination is made by the Vice President for Administration/CFO that the award of a contract, without delay, is necessary to protect substantial interests of the College.