STANDARD OPERATING PROCEDURE

SOP Number: Purchasing and AP 24-01

SOP Title: Protests and Vendor Dispute

Effective Date: 2/1/24

Revised Date:

1. PURPOSE

The purpose of this Standard Operating Procedure is to address protests of awards and vendor disputes.

1. SCOPE

This SOP applies to Western Carolina University employees, departments, and divisions.

1. RESPONSIBILITIES
   1. Chief Purchasing Officer – The Chief Purchasing Officer is responsible for ensuring compliance and biennial review of the policy.
2. 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.

1. SPECIFIC PROCEDURE
   1. All protests of contract awards up to the University’s delegation of $250,000 are addressed and processed by the Chief Purchasing Officer CPO; any protests that exceed University delegation are addressed by the State Procurement Officer (SPO) at P&C in Raleigh. In order to initiate a protest of an award up to $250,000, the Vendor shall:

* Submit a written request for a protest meeting to the CPO within thirty (30) calendar days from the date of the Contract award. The CPO shall furnish a copy of this letter to the SPO within five (5) calendar days of receipt. The Vendor's request shall contain reasons why it has a concern with the award and any supporting documentation. If the request does not contain this information, or if the CPO determines that the protest is meritless so that a meeting would serve no purpose, then the CPO, within ten (10) calendar days from the date of receipt of the request, will respond in writing to the Vendor and refuse the protest meeting request. A copy of the CPO’s decision letter shall be forwarded to the SPO.
* If the protest meeting is granted, the CPO shall schedule the meeting within thirty (30) calendar days after receipt of the request, unless another date is mutually agreed upon. Within ten (10) calendar days from the date of the protest meeting, the CPO shall respond to the Vendor in writing with the CPO’s decision and the Vendor’s appeal rights under Article 3 of G.S. 150B. A copy of the CPO’s decision letter shall be forwarded to the SPO.
* The University will notify the SPO in writing of any further administrative or judicial review of the Contract award.

In order to initiate a protest of an award that exceeds $250,000, the Vendor shall:

* Submit a written request for a protest meeting to the SPO within thirty (30) calendar days from the date of the Contract award. The Vendor's request shall contain reasons why it has a concern with the award and any supporting documentation. If the request does not contain this information, or if the SPO determines that the protest is meritless so that a meeting would serve no purpose, then the SPO may, within ten (10) calendar days from the date of receipt of the request, respond in writing to the Vendor and refuse the protest meeting request.
* If the protest meeting is granted, the SPO shall schedule the meeting within thirty (30) calendar days after receipt of the request, unless another date is mutually agreed upon. Within ten (10) calendar days from the date of the protest meeting, the SPO shall respond to the Vendor in writing with the SPO's decision and the Vendor’s appeal rights under Article 3 of G.S. 150B.
* The SPO shall notify the Secretary of any further administrative or judicial review of the Contract award.

1. RESOURCES

North Carolina Procurement Manual: <https://files.nc.gov/ncdoa/documents/files/NC-Procurement-Manual-2022-with-TOC.pdf>

North Carolina Administrative Code 01 NCAC 05B.1519

<http://reports.oah.state.nc.us/ncac/title%2001%20-%20administration/chapter%2005%20-%20purchase%20and%20contract/subchapter%20b/01%20ncac%2005b%20.1519.pdf>

Chapter 150B

<https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_150B.html>