



CITY OF VANCOUVER
Policies and Procedures

Title: Procurement Protest Policy	
Policy and Procedure Number: COV-300-004	Supersedes (Number and Title): Protest Procedure dated 8/31/04
Scope (Identify "citywide" or the affected department(s) and, optionally, the department's division(s)): Citywide	
Effective Date: 10/17/2022	Approved by (Name, Title and Signature): Natalsha Ramras, Chief Financial Officer

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Natalsha Ramras
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Purpose:

- 1) Clarify and establish protest procedures for procurement solicitations.

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1.0 Definitions

Award: A decision by the City to purchase goods or services from a particular bidder or proposer. For the purposes of this policy, the term "award" includes the City's selection of a particular bid or proposal as most advantageous to the City.

Days: Regular working days, excluding Saturdays, Sundays, and holidays observed by the City of Vancouver, recognized by RCW 1.16.050(1)(b)-(k).

Filing: Delivery and confirmed receipt of the protest by the City.

Interested Parties:

- (1) Prior to submission of bids, proposals or offers to the City, an actual or prospective bidder, proposer or offeror whose direct economic interest would be affected by the procurement;
- (2) After submission of bids, proposals, or offers to the City, an actual bidder, proposer, or offeror;
- (3) Does not include subcontractors, suppliers, or any person contracting with, or intending to contract with, an actual bidder, proposer, or offeror.

Procurement: The act of buying goods or services in response to a solicitation issued by the City of Vancouver for such goods or services.

Protest: A written objection by an Interested Party to a procurement.

Protestor: An Interested Party who files a protest as provided herein.

Solicitation: A general term for Invitation to Bid, Request for Proposal, Request for Qualifications, and Request for Quote documents.



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2.0 General Conditions

Interested Parties who claim to be aggrieved in connection with the solicitation or proposed award of a contract may submit a protest to the City in accordance with the procedures set forth herein.

There are two types of protests:

1. Pre-bid or Solicitation Phase Protest: The protest is received prior to the bid opening or proposal/qualifications due date. Protests may be based on:
 - a. Any portion of the specifications, solicitation, or pre-bid/proposal meetings;
 - b. Any minimum qualifications identified within the solicitation package;
 - c. Questions that were not fully or properly addressed by the City;
 - d. Inadequate information or improper criteria contained in the solicitation package; or
 - e. Any other matter known or that should have been known, to Interested Parties by reading the solicitation.
2. Pre-Award Protest: This protest is against making an award and is received after receipt of proposals/qualifications or bids, but before contract award. The right to protest issues regarding the specifications, solicitation, or pre-bid/solicitation meetings must have been protested prior to bid opening or proposal/qualifications due date, and therefore are no longer eligible as an issue of protest. Protests may be based on:
 - a. Issues with the bid opening or proposal/qualification due date
 - b. Rejection of a bid or proposal as Nonresponsive or Not Responsible;
 - c. Notice of Intent to Award; or
 - d. Evaluation of the proposals/qualification statements.

All communications concerning a protest shall be submitted in writing and will be considered public records.

Failure to comply within the procedures set forth herein shall render the protest untimely and inadequate and shall result in the rejection by the City.

3.0 Form and Content

All protests must contain the information required by this section and shall be denied if it does not. A protest must include:

1. Company name, mailing address, contact information, and name of the individual(s) responsible for submission of the protest;
2. Identify the City solicitation (title, number, and department) being protested;
3. State the specific action or decision being protested;
4. State all reasons and bases for the protest, including, but not limited to:
 - a. Identification of any and all specifications, terms, requirements, conditions, or any other item or process to which the protestor objects;
 - b. A specific identification of the statutory, regulatory, or policy provision(s) that the action being protested is alleged to have violated; and
 - c. A complete description of the facts, circumstances and reasons why you believe an award should or should not be made.
5. Indicate what relief or corrective action you believe the City should make; and
6. Signature of an authorized agent of the company and a written attestation by the agent that the contents of the protest are true and accurate.

All applicable attachments that support the protest should be included with the formal written protest. A protestor waives any and all grounds for protest that are not clearly identified or described in the protest



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initially filed with the City.

4.0 Method of Filing

Any protest shall be filed with the City in written form only, by hand delivery or courier to 415 W 6th Street, Vancouver, WA 98660 or for U.S. Mail delivery to PO Box 1995, Vancouver, WA 98668-1995.

Any protests submitted by mail should be mailed with ample time to be received at City Hall on or before the actual due date.

Protests will not be accepted via e-mail or fax. Any protest received electronically shall be rejected.

5.0 Time for Filing

A Protestor must strictly comply with the time limits established by this section. A Protestor's failure to comply with the time limits required by this section shall constitute a waiver of the Protestor's right to protest.

If a differing time limit is set forth in the procurement specifications, the limits in the specifications shall prevail.

5.1 Pre-Bid or Solicitation Phase Protest

The City must receive such a protest at least five (5) Days prior to the bid opening or proposal/qualifications due date. These protests are to be submitted to the Procurement Specialist overseeing the project.

Upon receipt of the protest the Procurement Specialist shall review the concerns outlined and consult with the necessary parties as need. The Procurement Specialist shall reply to the protest within three (3) Days.

5.2 Pre-Award Protest

The City must receive such a protest within three (3) Days after bid opening or notification of intent to award for Request for Proposals/Qualifications. These protests are to be submitted to the Procurement Manager. Copies of the protest may be provided to the bidder against whom the protest is made if they are not copied on the original protest. At that time, the bidder whom the protest is made against can respond in writing to the Procurement Manager, within two (2) business days to the issues brought forward by the Protestor.

The Procurement Manager, upon receipt of the protest, shall review all of the issues brought forward in the protest and consult with the necessary parties as needed. All available facts will be considered. The Procurement Manager shall respond, in writing, to all parties within ten (10) Days after receipt of the protest. If more time is necessary to complete a thorough review the Procurement Manager will notify all parties involved.

The Procurement Manager shall not award the project to anyone other than the protesting bidder without first providing at least two (2) Days' written notice of the City's intent to award.

6.0 Appeal Process

A Protestor has three (3) Days, after receipt of the City's determination, to appeal the decision. The appeal must be submitted in writing and provide a basis for an appeal. The appeal letter should be sent to the City Attorney noted on the determination with copies to the Procurement Services Manager and the Procurement Specialist handling the project. This shall be the final appeal provided to the Protestor.

Upon receipt of the appeal, the City Attorney shall consider all of the facts and issues and shall issue a final decision on the City's behalf within thirty (30) Days. The City Attorney or their designee(s) may further



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investigate the protest and request additional information from the Protestor or any other party. The final decision given by the City Attorney shall either confirm or overturn the City's determination.

7.0 Exhaustion of Administrative Remedies

A Protestor may not commence litigation prior to exhausting all administrative remedies. Failure to exhaust all administrative remedies shall constitute an absolute waiver of the Protestor's right, if any, to commence litigation.

8.0 Costs

In no event shall a Protestor be entitled to recover any costs incurred in connection with the protest of a solicitation, including but not limited to bid or proposal preparation costs, protest preparation costs, or attorney's fees.

9.0 References

RCW 39.04.105: Competitive Bidding – Written Protests – Notice of Contract Execution

RCW 1.16.050: Legal holidays and legislatively recognized days