



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, 10/17/2022
Scope (Identify "citywide" or the affected department(s) and, optionally, the department's division(s)): Citywide	
Effective Date: October 28, 2024	Approved by (Name, Title and Signature): Natasha Ramras, Chief Financial Officer <small>DocuSigned by: Natasha Ramras</small>

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 under a contract. For the purposes of this policy, "Award" includes the City's selection of a particular bid or proposal as most to the City compared to other bids or proposals.

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

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

Intent to Award: The City's notice that it intends to negotiate with the highest scoring proposer or offeror.

Interested Parties means:

- (1) a prospective bidder, proposer, or offeror whose direct economic interest would be affected by the procurement prior to the submission of a bid, proposal, or offer to the City, and,
- (2) After submission of bids, proposals, or offers to the City, an actual bidder, proposer, or offeror.
- (3) Subcontractors, suppliers, or any person contracting with or intending to contract with an actual bidder, proposer, or offeror are not Interested Parties.

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: An Interested Party's written objection to a procurement.

Protestor: An Interested Party who files a Protest in compliance with this policy.

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 may Protest a Solicitation or proposed Award of a contract by following the procedure set forth below. The City will reject Protests that do not follow this procedure.

There are two types of Protests:

1. Pre-bid or Solicitation Phase Protest: The Protest that is received prior to the bid opening or proposal/qualifications due date. Pre-bid or Solicitation 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;
 - 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.

The right to protest issues regarding the specifications, contract requirements, 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.

2. Pre-Award Protest: This Protest is against a proposed award and is received after receipt of proposals/qualifications or bids and before contract award. Pre-award protests may be based on:
 - a. Issues with the bid opening date 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 Protest-related communications are 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. The City will reject any non-compliant Protest. 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) that is the subject of the Protest;
3. State the specific action or decision under Protest;
4. State all reasons and bases for the Protest, including, but not limited to:
 - a. Identify any and all specifications, terms, requirements, conditions, or any other items or processes to which the Protestor objects;
 - b. Identify the statutory, regulatory, or policy provision(s) that the action under Protest is alleged to have violated; and
 - c. A complete description of the facts, circumstances and reasons why the Protestor believes a proposed Award should or should not be made.
5. Indicate the relief or corrective action Protestor seeks; and
6. Signature of an authorized agent of the Protestor and a written attestation by the agent that the contents of the Protest are true and accurate.
7. Include the applicable attachments that support the Protest.



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Protestor waives any and all grounds for Protest that are not clearly identified or described in the Protest initially filed with the City.

4.0 Method of Filing

Protestor shall file its Protest with the City in writing and labeled "PROTEST" by one or more of the following methods on or before the due date stated below:

1. Submit by email to procurement.services@cityofvancouver.us. Protestor must confirm City has received the email if City does not acknowledge receipt to successfully file by this method.
2. Deliver in person or by courier to 415 W 6th Street, Vancouver, WA 98660.
3. Send by U.S. Mail to PO Box 1995, Vancouver, WA 98668-1995. The City must receive the Protest on or before the Protest due date to successfully file by this method.

The City will reject any Protest received by fax.

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.

5.1 Pre-Bid or Solicitation Phase Protest

The City must receive a Pre-Bid or Solicitation Protest at least five (5) Days before the bid open date or proposal/qualifications response 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 a Pre-Award Protest within five (5) Days after the date of publication of the bid tab to the City's website for bids or notification of Intent to Award for a Solicitation. These protests are to be submitted to the Procurement Manager. The City may provide copies of the Protest to the bidder/proposer against whom the Protest is made if the Protestor does not copy them on the Protest. The bidder/proposer subject of the Protest will have two (2) Days to respond to the City about the Protest following its receipt of copies of the Protest, either from the Protestor or the City.

Upon receipt of the Protest, 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. The Procurement Manager may extend this deadline to respond at any time during the ten (10) Day period with written notice to all parties. The Procurement Manager will respond to the Protest in writing by email if an email address is provided, requesting acknowledgement of receipt or will mail a response using certified mail.

The Procurement Manager will not execute a contract for the project with anyone other than the Protestor without first providing at least two (2) Days' written notice of the City's Intent to Award.

6.0 Appeal Process

A Protestor may appeal the City's decision within three (3) Days of the date of receipt of the City's response to the Protest. Protestor must submit the appeal in writing and provide a basis for the appeal. Protestor must send the appeal letter to the City Attorney's Office with copies to the Procurement Manager and the



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Procurement Specialist handling the Protest.

Upon receipt of Protestor's appeal, the City Attorney will consider and the Protest, City response to the Protest, and the appeal, and will issue a final decision on the City's behalf within fifteen (15) Days of receipt. The City Attorney may extend this deadline to respond at any time during the fifteen (15) Day period with written notice to the Proposer and bidder/proposer. The City Attorney or designee(s) may request additional information from the Protestor and or bidder/proposer during the consideration process. The City Attorney's decision is the final decision regarding the Protest and the appeal and will either confirm or overturn the City's determination.

7.0 Exhaustion of Administrative Remedies

A Protestor may not file a legal claim in any court 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

A Protestor may not seek to recover any costs incurred in connection with its Protest, including but not limited to bid or proposal preparation costs, Protest preparation costs, or attorney's fees of any kind related in any way to this policy.

9.0 Statutory References

RCW 39.04.105: Competitive Bidding – Written Protests – Notice of Contract Execution
RCW 1.16.050: Legal holidays and legislatively recognized days