

## **Disputes and Remedies** <sup>[1]</sup>

### Types of Disputes

The Assistant Vice President/Chief Procurement Officer is authorized to settle and resolve any questions regarding:

Any protest concerning the Solicitation or Award of a Contract; and  
Any controversy arising between the University and a Contractor by virtue of a Contract between them, including, without limitation, controversies based upon breach of Contract, mistake, misrepresentation, or any other cause for Contract modification or rescission.

### Costs of Filing

All costs associated with filing and prosecuting a protest or Contract dispute shall be borne by the Protestor/Contractor.

### Protests other than Contract Disputes

#### Filing of Protest

#### Subject of Protest.

Protestors may file a protest on any phase of a Solicitation or Award including, but not limited to, Specifications, Award, or disclosure of information marked confidential in a Solicitation offer. Protests shall be submitted in writing within seven (7) working days after such aggrieved person knows or should have known of the facts giving rise thereto.

### Form

The written protest shall include, at a minimum:

- the name and address of the Protestor;
- appropriate identification of the Procurement by Solicitation number;
- a statement of the reasons for the protest; and
- any available exhibits, evidence, or documents substantiating the protest.

### To whom addressed

The protest shall be addressed to the Assistant Vice President/Chief Procurement Officer and sent to the Purchasing Department in the Procurement Service Center.

### Requested Information

Any additional information regarding the protest should be submitted within the time period requested in order to expedite resolution of the protest. If any party fails to comply expeditiously with any request for information by the Assistant Vice President/Chief Procurement Officer, the protest may be resolved without such information.

## Decision

The Assistant Vice President/Chief Procurement Officer shall render a written decision regarding the protest within seven (7) working days after the protest is received. The decision shall be based on and limited to a review of the issues raised by the Protestor and shall set forth each factor taken into account in reaching the decision. The Assistant Vice President/Chief Procurement Officer shall furnish a copy of the decision to the Protestor in writing.

## Stay of Procurement

In the case of protested RFPs only, there shall be a stay of Procurement until the decision of the Assistant Vice President/Chief Procurement Officer is rendered, unless the Assistant Vice President/Chief Procurement Officer determines that execution of a Contract without delay is necessary to protect substantial University interests.

## Actions in Court

If a Protestor has filed a complaint in court which complaint is also the subject of a protest filed with the Assistant Vice President/Chief Procurement Officer, the Assistant Vice President/Chief Procurement Officer will not review the protest.

## Entitlement to Costs

When a protest is sustained by the Assistant Vice President/Chief Procurement Officer and the Protestor should have been Awarded the Contract under the Solicitation but, due to a defect in the Solicitation, was not, the Protestor shall be entitled to the reasonable costs incurred in connection with responding to the Solicitation. No other costs shall be permitted, and reasonable costs shall not include attorney fees.

## Contract Disputes Statement of Policy

The terms and conditions of University Contracts establish procedures and remedies to resolve Contract and breach of Contract controversies between the University and a Contractor. It is the University's policy to try to resolve all controversies by mutual agreement through informal discussions without litigation. As used in these Rules, the word "controversy" is meant to be broad and all-encompassing, including the full spectrum of disagreements from pricing of routine Contract changes to claims of breach of Contract.

## Situation prior to Issuing Decisions

When a controversy cannot be resolved by mutual agreement, the Assistant Vice President/Chief Procurement Officer shall review the matter within twenty (20) working days after receiving a written request by the Contractor for a final decision and shall issue a written decision.

## Final Decision

The Assistant Vice President/Chief Procurement Officer shall furnish a written copy of the decision to the Contractor. The decision shall include:

- a description of the controversy;
- a reference to the pertinent Contract provision(s);
- a statement of the factual areas of agreement and disagreement; and
- the supporting rationale for the decision.

#### Actions in Court

If a Contractor has filed a complaint in court which complaint is also the subject of a protest filed with the Assistant Vice President/Chief Procurement Officer, the Assistant Vice President/Chief Procurement Officer will not review the protest.

#### **Groups audience:**

Procurement Service Center

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#### **Links**

[1] <https://www.cu.edu/psc/disputes-and-remedies>