



**Policy Title:** Contract Award Protest Procedure

**Responsible Office:** Capital Procurement

**Last Revised Date:** March 28, 2022

### **Summary:**

This procedure shall be used to administratively resolve a protest by an interested party related to the procurement and award of a State University Construction Fund (the Fund) contracts. It shall apply to construction contracts issued by the Fund. The Protest Officer shall be the Director of Capital Procurement or his/her designee and Appeal Officer shall be the General Counsel or his/her designee. For the purpose of this procedure, an "interested party" is a participant in the procurement process, and those who can establish that their participation in the procurement process was foreclosed by the actions of the public contracting entity and have suffered harm as a result of the manner in which the procurement was conducted.

### **Procedure:**

#### 1) Submission of Protest

- a) A protesting party may submit a protest to the Protest Officer in writing, setting forth the basis on which the protesting party challenges a procurement issued by the Fund.
- b) The protest must include the following:
  - i) Name, address, email address, telephone numbers of the protesting party or its designated agent;
  - ii) Bid, solicitation or project number;
  - iii) Detailed statement of the legal and factual grounds for the protest;
  - iv) Copies of all relevant documents; and
  - v) Statement of the relief requested, including any request for a hearing, if applicable.
- c) The protest must be received by the Fund within ten (10) business days after the bid opening. The protest must be submitted via email to [sucf.constructionbids@suny.edu](mailto:sucf.constructionbids@suny.edu) to the Protest Officer. An untimely protest will not be considered and will be returned to the protesting party.
- d) A copy of the bid protest may be issued to the apparent successful Bidder for their review / comment, if appropriate, as determined by the Fund
- e) The apparent successful Bidder may, but is not required to, file a response to the protest with the Fund. The apparent successful Bidder shall have no less than two (2) business days after its notification of the protest to file any response with the Protest Officer.

#### 2) Review of Protest and Determination

- a) Upon receipt of the protest, the Protest Officer shall review the protest, supporting documents, and any other documents, including any response by the apparent successful Bidder, if any. The Protest Officer shall issue a Notice of Determination within twenty (20) business days after receipt of the protest, where feasible. The Protest Officer may take any action or make any requests he/she deems necessary in order to investigate the protest, including holding an informal conference to resolve the protest by mutual consent.
- b) Notice of Determination may include the reason(s) upon which it is based and informing the protesting party or the apparent successful Bidder, as applicable, of the right to appeal the unfavorable determination to the Appeal Officer.
- c) The procurement action under protest shall not be stayed unless the Director of Capital Procurement determines that it is in the Fund's best interest to delay the action.



### 3) Appeals

- a) The Protest Officer's determination shall be the conclusive and final determination of the protest, unless, within three (3) business days after receipt of the written determination, the protesting party or the apparent successful Bidder where applicable, appeals the determination to the Appeal Officer.
- b) Should any party timely appeal the protest, the appeal will be reviewed by the Appeal Officer who will consider all information relevant to the protest. The appeal shall be submitted in writing to [sucf.constructionbids@suny.edu](mailto:sucf.constructionbids@suny.edu) and must state the basis of the appeal. No additional evidence or information may be introduced or relied upon in the appeal that was not presented to the Protest Officer prior to issuance of the Notice of Determination.
- c) The Appeal Officer will review the appeal and supportive documents and issue a written decision within ten (10) business days of receipt of the appeal, where feasible. The decision of the Appeal Officer shall be the Fund's conclusive and final determination of the protest.