

Supply Chain Management

Section: 2-Sourcing and Contract Mgmt
Policy No: 2-200
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Protest Procedures Related to Procurement of Goods and Services POLICY

PURPOSE

This procedure is issued to provide guidelines and time frames for accepting and processing vendor protests of purchase awards by The University of Texas MD Anderson Cancer Center (“MD Anderson”).

RESPONSIBILITIES

Associate Vice President, Supply Chain Services

- Attempts to resolve and settle a protest concerning the solicitation or award of a contract.
- Issues a written determination regarding a protest.
- Informs the protesting party and the using department by letter of the determination, reasons for the determination, and any remedial action.
- Retains all documents related to a protest filed with MD Anderson in accordance with the institution’s records retention policy.

Chief Business Officer, or Designee

- Considers and issues a written decision regarding appeals of the written determination of a protest issued by the Associate Vice President, Supply Chain Services.

PROCEDURES

1. Protest Procedures

Any actual or prospective bidder, offeror, proposer (vendor) who wishes to file a grievance in connection with the solicitation, evaluation, or award of a contract by MD Anderson, may file a formal protest with the Associate Vice President, Supply Chain Services. Such protests must be in writing and received in the Associate Vice President, Supply Chain Services office within 10 working days after such person knows, or should have known, of the occurrence of the act or omission being protested.

2. Written Determination to Proceed

If a protest meeting the requirements of these procedures is timely received, MD Anderson shall not proceed further with the solicitation or with the award of a contract unless the chief business officer of MD Anderson, or designee, makes a written determination that it is necessary to proceed with the solicitation or contract award without delay to protect the best interests of the institution. Such determination will be made in consultation with the using department and the Associate Vice President, Supply Chain Services.

3. Formal Protest

3.1. A formal protest must contain:

- 3.1.1. a specific identification of the statutory or regulatory provision(s) that the act or omission being complained of is alleged to have violated;
- 3.1.2. a specific description of each act or omission alleged to be in violation of the statutory or regulatory provision(s) identified in Section 3.1.1;
- 3.1.3. a statement of the relevant facts;
- 3.1.4. an identification of the issue or issues to be resolved; and
- 3.1.5. argument and authorities in support of the protest.

4. Associate Vice President, Supply Chain Services Review

4.1. The Associate Vice President, Supply Chain Services shall attempt to settle and resolve the protest concerning the solicitation or award of a contract, prior to issuing his/her final determination. The Associate Vice President, Supply Chain Services may request additional information from the protesting party and the using department to help in the evaluation and resolution of the protest.

5. Written Determination

5.1. The Associate Vice President, Supply Chain Services will issue a written determination on the protest.

- 5.1.1. If the Associate Vice President, Supply Chain Services determines that no violation of rules or statutes has occurred, the Associate Vice President, Supply Chain Services shall inform the protesting party and the using department by letter that sets forth the reasons for the determination.
- 5.1.2. If the Associate Vice President, Supply Chain Services determines that a violation of the rules or statutes has occurred in a case where a contract has not been awarded, the Associate Vice President, Supply Chain Services shall inform the protesting party and the using department by letter that sets forth the reasons for the determination and the appropriate remedial action.
- 5.1.3. If the Associate Vice President, Supply Chain Services determines that a violation of the rules or statutes has occurred in a case where a contract has been awarded, the Associate Vice President, Supply Chain Services shall inform the protesting party and the using department by letter that sets forth the reasons for the determination and the appropriate remedial action, which may include ordering the contract terminated.

- 5.2. The Associate Vice President, Supply Chain Services will issue a written determination on a protest no more than 15 working days from the date of receipt of a protest that meets the requirements set forth in Section 3.1 above.

6. Appeal

- 6.1. The Associate Vice President, Supply Chain Services' determination regarding a protest may be appealed by the protesting party to MD Anderson's chief business officer, or designee. An appeal of the Associate Vice President, Supply Chain Services' determination must be in writing and must be received in the office of the chief business officer no later than 10 working days after the date of the Associate Vice President, Supply Chain Services' determination.

7. Timely Filing of Protest and Appeal

- 7.1. Unless good cause for delay is shown or the chief business officer determines that a protest or appeal raises issues significant to procurement practices or procedures, a protest or appeal that is not filed timely will not be considered.

8. Appeal Final

- 8.1. An appeal to the chief business officer shall be limited to review of the Associate Vice President, Supply Chain Services' written determination of the original protest. A decision issued in writing by the chief business officer shall be final.

9. Record Retention

- 9.1 All documents related to protests filed with MD Anderson will be retained in accordance with the institution's records retention policy.

REFERENCES

Supersedes and Replaces Procedure 4-3-160 and all previous provisions of this procedure

U.T. System Policy # UTS148

Section 3, Subchapter C, Chapter 73, Educ. Code, Sect. 73.115