**Section 4.5550 Protests**

a) Procurement-Related Protests Allowed

1) Any person may submit a protest related to the notice of the procurement, the solicitation document, any pre-bid/proposal meeting and any decision to reject a late bid or proposal.

2) Any person who has submitted a bid or proposal may protest a decision to reject the person's bid or proposal or to award to another person.

b) Protest Review Officer

The CPO-HE may appoint one or more Protest Review Officers (PRO) to consider the procurement-related protests and make a recommendation to the CPO-HE for resolution of the protest. The CPO-HE may adopt the recommendation or take other action.

c) Submission of Protest

1) A protesting party must submit a protest in writing to the PRO identified in the solicitation document. Fax and e-mail qualify as writing, but the PRO does not guarantee receipt using those means.

2) The protest must be physically received by the PRO at the location specified. A postmark or other carrier mark prior to the due date and time is not sufficient to show physical receipt.

A) In regard to the solicitation notice or solicitation document including specifications, a protest must be received within 14 days after the date the solicitation was posted to the Bulletin and must be received by the PRO at the designated address before the date for opening bids or proposals.

B) In regard to rejection of individual bids or proposals or awards, the protest must be received by close of business no later than 14 days after the protesting party knows or should have known of the facts giving rise to the protest to ensure consideration, and, in any event, must be received before execution of the applicable contract.

C) The PRO, for good cause shown, or when it determines that a protest raises issues significant to the procurement system, may consider an untimely protest. Good cause may include, but is not limited to, instances in which the procurement file is not available in a timely manner to interested parties or when a Freedom of Information Act request has not been responded to by a university in full or in part.

3) Any notice posted to the Bulletin establishes the "known or should have known" date for the subject matter of the notice.

4) Protests must be clearly marked on the delivery container, the fax cover sheet or the e-mail subject line.

5) No formal briefs or other technical forms of pleading or motion are required. Protest submissions should be concise and logically arranged and should clearly state sufficient grounds of protest. The written protest shall include as a minimum the following:

A) the name and address of the protesting party;

B) identification of the procurement and, if a contract has been awarded, its number or other identifier;

C) a statement of reasons for the protest specifically identifying any alleged violation of a procurement statute, a procurement rule or the solicitation itself, including the evaluation and award (conclusions with supporting facts and arguments may not be sufficient);

D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated. If submitting the protest by fax, supporting documentation over 20 pages in length may not be included without authorization. If the protest is by fax or e-mail, the protesting party may be required to submit documentation by mail or carrier within 2 days after the request; and

E) specific relief sought.

6) The protesting party shall clearly identify any information in the protest that is confidential, proprietary or a trade secret.

d) Requested Information

1) The university must supply a response and any additional information requested by the PRO within the time periods set in the request. If a university fails to comply with this request, the PRO may consider the protest on the basis of available information or may recommend to the CPO-HE that the relief requested in the protest be granted.

2) The protesting party must supply any additional information requested by the PRO within the time periods set in the request. If the protesting party fails to comply with this request, the PRO shall consider the protest on the basis of available information or may recommend to the CPO-HE that the relief requested in the protest be denied.

3) The PRO may request an interested party supply additional information within the time period set in the request. For purposes of a protest, an "interested party" means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.

e) Stay of Procurements During Protest

Unless the CPO-HE determines the needs of the State require an immediate execution of a contract, the following apply:

1) When a protest has been timely filed and before an award has been made, no award of the contract shall be made until the protest has been resolved.

2) If timely received but after award, the award shall be stayed without penalty to the State.

f) Resolution

After considering the evidence presented, the PRO shall submit a proposed written resolution of the protest to the CPO-HE. The CPO-HE will resolve the protest by means of a written determination, as expeditiously as possible after receiving all relevant information. In determining the appropriate recommendation, the PRO shall consider the seriousness of the procurement deficiency, the degree of prejudice to other parties or to the integrity of the competitive procurement system, the good faith of the parties, the urgency of the procurement, and the impact of the recommendation on the university's mission. The recommendation may include, but is not limited to:

1) affirming the university's initial decision, in whole or in part;

2) directing the university to issue a new solicitation;

3) directing the university to award a contract consistent with statute and rule; or

4) directing such other action as is necessary to promote compliance with statute or rule.

g) Effect of Judicial Proceedings

If an action concerning the protest has commenced in a court or administrative body, the CPO-HE may defer resolution of the protest pending the judicial or administrative determination.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)