

**CHICAGO PARK DISTRICT
DEPARTMENT OF PURCHASING**

**SOLICITATION AND CONTRACTING PROCESS
PROTEST PROCEDURES**

(Applicable to Invitation for Bids, Request for Proposals, and Request for Qualifications)

October 2, 2013



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SECTION 1 – CHICAGO PARK DISTRICT PROTEST PROCEDURES

The Director of Purchasing of the Chicago Park District will consider a protest (as described in subsection C) regarding its procurement actions for the Chicago Park District (“CPD”) projects in accordance with the following procedures. All protests will be evaluated and finally decided by the Director of Purchasing of the Chicago Park District. Accordingly, the CPD intends to provide a thorough review of all protests to the extent they conform to the requirements herein. The CPD’s primary concern is the timely procurement of needed supplies or services. The CPD will not allow the filing of a protest to unnecessarily delay the procurement process, especially if the protest involved is vexatious or frivolous in nature.

Notwithstanding the availability of these protest procedures, any interested party is encouraged to exhaust all methods of resolution described in the contract documents before filing a formal protest. In its consideration of a protest, the CPD reserves the right to give consideration to the good faith efforts of the protestor to resolve the issue involved through informal efforts. Failure to comply with the protest procedures herein, including, without limitation, all timing requirements, shall constitute a waiver of any right to pursue a bid protest.

A. Definitions

1. “Days” refers to working days of the CPD.
2. “Federal Law” or “Regulation” means any valid requirement imposed by Federal statute or regulation governing contracts awarded pursuant to a grant agreement
3. “Interested Party” means any person (a) who is an actual bidder or prospective bidder in the procurement involved; (b) whose direct economic interest would be affected by the award of the contract or by a failure to award the contract; and (c) who demonstrates compliance with these procedures, the terms of the Invitation for Bids, and the contract documents (if bid) or Request for Proposals (“RFP”) or Request for Qualifications (“RFQ”), as applicable.
4. “Director of Purchasing” means the position, authority and duties described and defined in Chapter 11, section 5 of the Code of the Chicago Park District.
5. “Submit” or “File” means the date of actual receipt by the Director of Purchasing.

B. Filing of Protest

Any interested party may file a protest on the basis that the CPD has failed to comply with applicable Federal or State law or with Local regulations. The Protest must be filed in accordance with the timing requirements set forth in Subsection C herein, and must include:

1. The name, address, telephone, facsimile numbers, and e-mail address of the protestor;
2. The number of the specification/contract solicitation;
3. All information establishing that the protestor is an interested party;
4. A written statement of the grounds for the protest specifically identifying the Federal, State, or local law(s) or regulation(s), and any section of the specification / contract solicitation alleged to have been violated. This statement should be accompanied by any and all relevant support documentation and a statement regarding the course of action the protesting party desires that the Director of Purchasing takes. Protests should be submitted to:

Director of Purchasing
Chicago Park District
Department of Purchasing
541 N. Fairbanks, 3rd Floor
Chicago, Illinois 60611

5. All information establishing timeliness of the protest; and
6. The signature of the protestor on the written protest.

If the protest does not meet the time or contents requirements, the Director of Purchasing may, at his/her sole option, reject the protest or allow the protesting party a reasonable time to correct the deficiencies of the protest. The Director of Purchasing shall not be obliged to postpone contract awards in order to allow a protestor an opportunity to correct a deficient protest, unless otherwise required by Federal Law or regulation.

C. Subject of the Protest and Timing

The requirements of timely filing of a protest with the Director of Purchasing will depend upon the type of protest involved. The subject of the protest shall be limited to fraud, corruption, or illegal acts undermining the objective and integrity of the procurement process. For purposes of this section and in accordance with Section I.A.4 of these procedures, deposit in the mail, postage prepaid does not constitute filing or receipt. A

protest is considered filed when physically received by the Director of Purchasing or duly appointed designee.

The CPD will consider these types of protests:

1. Protest regarding solicitation (Pre-Bid Protest)

Any protest regarding the solicitation by the CPD must be filed no later than **five (5) days** before the opening of bids (if bid) or the due date for submittals or proposals (if RFQ/P), as applicable. Any protest filed after that date which raises issues regarding the solicitation will not be considered.

2. Protests regarding the evaluation of bids, qualifications or proposals (Pre-Award Protest)

Any protest regarding the evaluation of bids, qualifications or proposals by the CPD must be filed with the CPD no later than **ten (10) days** after the opening of bids (if bid) or due date (if RFQ/P). Any protest filed after such date which raises issues regarding the evaluation of bids, qualifications or proposals will not be considered.

3. Protest Regarding Award of Contract (Post-Award Protest)

Any protest regarding the award of the contract must be filed no later than **ten (10) days** after the date of award. Any protest regarding the award of the contract filed after such date will not be considered.

D. CPD Response

1. Types of Protest

Upon timely receipt of a protest, the CPD will notify the protestor and may, where appropriate, request additional information from the protestor. The CPD may, in its discretion, meet with the protestor to review the matters raised in protest. The Director of Purchasing shall keep a record of the date and place of the CPD's meeting with the protestor, and a list of the names and titles of those attending the meeting. The CPD's consideration of the particular types of protests will, except as otherwise provided in Paragraph 2 of this subsection, be in accordance with the following provisions:

a. Protest regarding solicitation (Pre-Bid Protest)

Upon receipt of a timely and properly filed protest regarding the solicitation, the CPD may postpone the opening of bids, qualifications, or proposal packages until resolution of the protest, unless otherwise decided by the Director of Purchasing in accordance with Section D.2 of this procedure. If the CPD postpones the opening of bids, submittals, or proposal packages, no additional bids will be accepted during the period of postponement.

b. Protest regarding bid evaluation (Pre-Award Protest)

Upon receipt of a timely and properly filed protest regarding the evaluation of bids, qualifications, or proposals, the CPD may suspend its evaluation of all bids, qualifications, or proposals submitted until resolution of the protest, unless otherwise determined by the Director of Purchasing in accordance with Section D.2 below.

c. Protests regarding award (Post-Award Protest)

Upon receipt of a timely and properly filed protest regarding the award of a contract, the CPD will not issue a notice to proceed or submit an order for goods to the contractor until the protest has been resolved, unless the work or supplies are necessary to protect the interests of the CPD in accordance with Section D.2 below. If necessary, the CPD may issue a stop work order until the resolution of the protest.

2. Decisions by the Director of Purchasing

a. Continue Process during Protest Resolution

A decision on a protest will be made as expeditiously as possible after receiving all relevant information. The Director of Purchasing reserves the right, notwithstanding the pendency of a protest, to proceed with the appropriate action in the procurement process or under the contract in the following cases:

- 1) where the item to be procured is urgently required;
- 2) where the Director of Purchasing determines that the protest was vexatious or frivolous; and
- 3) where delivery or performance will be unduly delayed, or other under harm will occur, by failure to make the award promptly.

b. Informal Conference

Five (5) days after a protest has been timely and properly filed the protestor may submit a request for an informal conference. The Director of Purchasing may, at his/her option, hold an informal conference on the merits of the protest with all interested and available parties. All interested parties will be given at least **two (2) days'** notice of the informal conference. The Director of Purchasing shall keep a record of the date and place of the CPD's meeting with the protestor, and a list of the names and titles of those attending the meeting.

c. Written Decision

Upon receipt of a timely and properly filed protest and review by the Director of Purchasing, the Director of Purchasing will provide a written decision to the protesting party within **ten (10) days**. The basis of the decision will be the information submitted by the protestor, the result of any meetings with the protestor, and the Director of Purchasing's own investigation. The Director of Purchasing will respond to each substantive issue on the protest submitted with the level of detail deemed appropriate by the Director of Purchasing. The Director of Purchasing's decision shall become final within **five (5) days** unless a timely request for reconsideration is filed as noted below.

d. Reconsideration of Protest Decision

A protesting party may request the Director of Purchasing's reconsideration of a decision if:

- 1) Information becomes available that was not previously known, or could have reasonably become known, or
- 2) The Director of Purchasing's decision contains an error of law or regulation.

The request must be submitted in writing to the Director of Purchasing within **five (5) days** of the date of issuance of the written decision. The request must include a detailed explanation of the basis for reconsideration and state the course of action the protesting party desires that the Director of Purchasing takes.

e. Director's Final Decision

The Director of Purchasing shall issue a final decision in writing within **twenty (20) days** of receiving the protesting party's written request for reconsideration. If the Director of Purchasing finds in favor of the protesting party, the Director of Purchasing may, but is not obligated to, take steps to correct the procurement process, including, but not limited to, re-solicitation of bids, revising evaluation of bids, or termination of the contract. If the Director of Purchasing denies the protest, the Director of Purchasing will lift any imposed suspension and proceed with the procurement process of the contract.