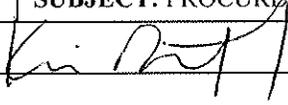


<b>POLICY OF</b>  <b>STATE OF DELAWARE</b>  <b>DEPARTMENT OF CORRECTION</b> <b>BUREAU OF MANAGEMENT SERVICES</b>	<b>POLICY NUMBER</b>  2.16	<b>PAGE NUMBER</b>  1 of 3
	<b>RELATED ACA STANDARDS:</b>	
<b>CHAPTER: 2</b>	<b>SUBJECT: PROCUREMENT PROTEST POLICY</b>	
<b>APPROVED BY THE BUREAU CHIEF:</b> 		
<b>EFFECTIVE DATE:</b> 11/27/12		

- I. AUTHORITY: 29 Del. C. § 8903 (4)(5)(7)
- II. PURPOSE: To establish procurement protest policy and procedures applicable to vendors who challenge any of the Department's procurement processes, and to ensure that the Department is apprised timely of alleged defects in any request for proposals or any advertisement for bids or proposals.
- III. APPLICABILITY: All vendors bidding on Request for Proposals (RFP) with the Department.
- IV. POLICY: To ensure a fair and appropriate opportunity for vendors to protest the Department's procurement process.
- V. PROCEDURES: The Central Business Office oversees the Department's procurement procedures, including the bid protest process. Non-awarded vendors will be notified of non-award in writing on the date the award is issued. Vendors may view all contract details located on the Office of Management and Budget, Government Support Services website at [www.contracts.delaware.gov](http://www.contracts.delaware.gov). Vendors who chose to protest must conform with the Department's procedures.

Non-Protest Debrief

Non-awarded vendors are required to wait until a contract is signed before requesting a Department debrief. The debriefing will be in writing and consist of panel evaluations of the vendor and summary of the award rationale. This is not an opportunity to change evaluator scores or provide additional detail found to be missing. It will not include a point by point comparison of every proposal and will not reveal information that is exempt from release under the Freedom of Information Act (FOIA) including, but not limited to:

1. Trade secrets;
2. Privileged or confidential manufacturing processes and techniques; and
3. Commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information.

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Prior to Bid Opening

Protests based on omission, error, or content of the solicitation, will be denied if complaints were not brought to the attention of the Department's Purchasing Services Administrator, in writing, at least ten (10) calendar days prior to the date of the bid opening.

A protest brought to the attention of the Department using the proposal reply provision of the RFP submission but not addressed by posted addenda, shall be addressed at bid opening. Failure to notify the Department of issues that could have been the subject of a protest prior to the time a proposal is submitted disqualifies a vendor from protesting such issues after a contract award is made. Such failures will be deemed a procedural default by the vendor.

Post Bid Opening

Protests after an award is made must be submitted in writing to DOC\_Purchasing\_Mailbox@state.de.us and include a thorough explanation of the basis for the protest within five (5) calendar days. Correspondence or oral communications with employees of the Department shall not be deemed as the submission of a protest. The protest letter will be reviewed by the Commissioner, Bureau Chief of Management Services and appropriate legal counsel. A written response will be provided to the protestor within ten (10) calendar days of receipt.

In no event shall a vendor be entitled to recover any costs incurred in connection with the solicitation or protest process, including, but not limited to, the costs of preparing a bid proposal, participating in the protest or request for formal review process involving attorneys' fees.

Filing a protest may not prevent the protested contract from being executed. No contract shall be executed into until a final decision has been issued, unless the Department makes a written determination that the award of the contract without delay is necessary to protect the interests of the State.

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When a protest has been filed in a timely fashion, the Department shall determine if performance of the contract without delay is necessary to protect the interests of the State. If it is determined that it is necessary to proceed with the issuance of the contract and contract performance without delay, the bidder/offeror with this contingent contract may proceed with performance and receive payment for work performed in strict accordance with the terms of the contract; however, such bidder/offeror shall not be entitled to reimbursement for any capital outlay costs, or other up front expenditures incurred in performing the contract. The provisions of the paragraph are not applicable to a protest pertaining to events or facts arising during the solicitation process.

