

Unified Court System Bid Protest Procedure

A. Overview

The Unified Court System (UCS) has prepared this Bid Protest Procedure (the “Protest Procedure”) to provide an Interested Party¹ with an opportunity to administratively resolve grievances related to a UCS procurement action where the resulting contract award(s) exceeds fifty thousand dollars (\$50,000). This Protest Procedure does not apply to emergency procurements or a procurement action that results in a contract award(s) of fifty thousand dollars (\$50,000) or less. An Interested Party is encouraged to first seek resolution of concerns regarding a procurement action through consultation with the UCS designated contacts named in the solicitation. All such matters will be accorded full, impartial, and timely consideration. An Interested Party may also file a formal written bid protest in accordance with this Protest Procedure.

B. Initial Protest Period

1. Bid Solicitation – An Interested Party must file an initial protest concerning the form or content of the solicitation prior to the end of the solicitation’s final Question and Answer period. The protest may raise questions of law or fact, or other objections based on issues known to the Interested Party. If the solicitation does not have a formal Question and Answer period, the initial protest must be filed at least ten (10) business days before the date set in the solicitation for receipt of bids. If the date set in the solicitation for receipt of bids is less than ten (10) business days from the date the solicitation is issued, the protest must be filed at least twenty-four (24) hours before the time designated for receipt of bids.
2. Pending/Awarded Contract - If UCS has tentatively awarded a contract to a successful bidder, an Interested Party must file an initial protest of the contract award within ten (10) business days after it knows, or should have known, of the facts which form the basis of the protest; provided, however, a protest may not be filed later than ten (10) business days after receiving notice of the contract award which it seeks to challenge, or five (5) business days after a contract award debriefing (if provided for in the solicitation), whichever is later.

C. Submission of Initial Protests to UCS

Initial Protests must include:

¹ “Interested Party” means a participant in a UCS procurement process and those who can establish that their participation in the procurement process was foreclosed by the actions of UCS, who have suffered harm as a result of the manner in which the procurement was conducted.

1. Name, title, address, e-mail address, and telephone number of the filer.
2. Bid solicitation number.
3. A detailed statement of the legal and factual grounds of the dispute, including a description of resulting harm to the Interested Party that has filed a protest, hereinafter the “Protesting Party.”
4. Copies of relevant documents.
5. Request for a ruling by the UCS.
6. Statement concerning the form of relief requested.
7. All information establishing that the filer is authorized to file a protest on behalf of the Protesting Party (actual or prospective).

Any notice or filing under this Protest Procedure shall be in writing and effective when actually received by the party for whom intended.

A protest shall be filed in writing via certified mail or email by the deadlines stated in this Protest Procedure on or before 5 PM Eastern on a business day at the following address:

NYS Unified Court System
Office of Court Administration
Division of Professional and Court Services
25 Beaver Street, 7th Floor
New York, NY 10004
Attn: Director

Or by email to UCSbidprotest@nycourts.gov

With a copy to:

NYS Unified Court System
Office of Court Administration
Counsel’s Office
4 ESP, Suite 2001
Albany, NY 12223
Attn: Contracts Attorney

Or by email to UCSbidprotest@nycourts.gov

The Protesting Party must simultaneously deliver a copy of the protest to the successful bidder if it is known. If the Protesting Party knows the identity of the successful bidder, it shall attach to its protest an affirmation in writing as to such delivery. If the Protesting Party does *not* know the identity of the successful bidder, the Protesting Party shall state so in its affirmation, and the UCS shall provide the successful bidder with a copy of the protest. Any filing deadlines may be waived by the UCS in its sole discretion.

D. UCS Review and Response

1. Initial Bid Protests will be reviewed by the Director of the Office of Court Administration's Division of Professional and Court Services (the "DPCS Director"), or their designee.
2. The DPCS Director may summarily deny a protest that fails to contain specific factual or legal allegations, or where the protest raises only issues of law that have already been decided by the courts or DPCS Director.
3. Except where DPCS Director has summarily rejected the protest, if a contract has been awarded, the successful bidder may, but is not required to, file an answer to the protest. Any answer by the successful bidder must be filed with UCS within seven (7) business days of its receipt of the bid protest. The successful bidder must simultaneously deliver a copy of such answer to the Protesting Party, and its answer must contain an affirmation of such delivery.
4. The UCS will consider all information relevant to the protest, and may, at its discretion, suspend, modify, or cancel the disputed procurement action prior to issuance of a formal protest determination.
5. The UCS reserves the right to waive or extend the time requirements set forth herein or consider any materials, submitted in writing, beyond the timeframes herein prescribed when, in its sole judgment, circumstances so warrant. Nothing herein shall preclude UCS from meeting with or obtaining information relevant to the procurement from any source as it deems appropriate.
6. Notice of Determination: The DPCS Director shall issue a final determination in writing. A copy of the determination, stating the reason(s) upon which it is based and information on an Interested Party's right to appeal an unfavorable determination, shall be sent to the Protesting Party and, if applicable, the successful bidder, or their designated agents, by mail or email within thirty (30) business days of receipt of the protest.
7. During the time period in which a protest may be filed, or during the resolution of a pending protest, UCS may negotiate terms or conditions of the contract with the successful bidder; the procurement action under protest shall not be stayed unless the DPCS Director determines that it is in the best interest of the UCS to delay the action.

E. Appeals

Should any Interested Party be dissatisfied with UCS's initial protest determination, a written appeal may be directed to the Office of the State Comptroller (OSC), Bureau of Contracts (BOC) in accordance with Part 24 to Title 2 of the NYCRR, and in conformance with OSC's

“Contract Award Protest Procedure for Contract Awards Subject to The Comptroller’s Approval,” which is available at:

<https://www.osc.state.ny.us/agencies/guide/MyWebHelp/Content/XI/17.htm>

The appeal must be filed with BOC at the following address:

Bureau Director
at bidprotests@osc.ny.gov or
Bureau of Contracts
New York State Office of the State Comptroller
110 State Street, 11th Floor
Albany, NY 12236

The Interested Party must simultaneously deliver a copy of the appeal to UCS and the successful bidder (unless the successful bidder is the appealing party, in which case a copy of the appeal must be delivered to the original Protesting Party), and any other party that participated in the original protest. Any filing deadlines for the appeal may be waived by the BOC in accordance with its procedures.

In accordance with OSC regulation, the appeal must be filed at the above address within ten (10) business days of receipt of UCS’s initial protest determination.

F. Judicial Review

Nothing contained in this Protest Procedure is intended to limit or impair the rights of any vendor, Protesting Party, Interested Party, or contractor to seek and pursue legal remedies available through the judicial process.