

## IDAHO STATE UNIVERSITY PURCHASING APPEALS PROCESS

Submitting a bid or proposal to the University constitutes acceptance of the University's appeals process. All appeals are overseen by the University Purchasing Director (UPD). In their absence, an alternative representative may be appointed by the Chief Financial Officer to oversee an appeal.

Small purchases or purchases that are exempted from bidding requirements are not appealable.

Disposition of an appeal as set forth herein is final and will serve to exhaust all administrative remedies available as no further administrative remedies exist.

Process for appealable elements of formal sealed solicitations:

### A. Specifications

- (1) There shall be, beginning with the day of the posting of a Request for Proposal or Invitation to Bid through the University's electronic process, a period of not more than ten (10) business days in which any vendor, qualified and able to sell or supply the items or services to be acquired, may notify, in writing, the UPD of their intention to challenge the specifications and shall specifically state the exact nature of their challenge. Notice of specification challenge must be delivered to the University Purchasing Director at 921 South 8<sup>th</sup> Avenue, Administration Building Room 229, Pocatello, Idaho, 83209, by 5 PM Mountain Time of the deadline date. The specific challenge shall describe the location of the challenged portion or clause in the specification document, unless the challenge concerns an omission, explain why any provision should be struck, added, or altered, and contain suggested corrections.
- (2) Upon receipt of the challenge, the UPD will review the materials and rule on the challenge.
- (3) The challenge may be denied immediately or reviewed further. If the challenge is denied immediately, the vendor will receive a written decision setting forth the reason for the denial.
- (4) The UPD may also choose to assemble a team to assist in the review.
  - a. If the challenge is further reviewed, then all vendors, who are invited to bid on the property or service to be acquired, shall be notified of the appeal and intention to review the specifications and may indicate in writing their agreement or disagreement with the challenge within five (5) business days.
  - b. The notice to the vendors may be electronic. Any vendor may note his agreement or disagreement with the challenge. It is the vendor's responsibility to check the bid posting on the website to obtain the University's notice of specification review.
  - c. The UPD may refer the challenged portion and any related portions of the challenge to the committee to be rewritten with the advice and comments of the vendors capable of supplying the property or service; rewrite the specification and/or reject all or any part of any challenge.
  - d. Any vendors involved by either submitting the original challenge or submitting agreement or disagreement with the original challenge will be provided a written decision setting forth the reasoning for the decision.
- (5) If the challenge is upheld, notice will be provided to the vendor community via the University Purchasing website.

- (6) The UPD, at their discretion, may reset the bid opening date after final determination of challenges or the amendment of the specifications.

B. Determination by the University that the bid or proposal is non-responsive and does not comply with solicitation requirements and specifications.

- (1) A nonresponsive bid or proposal is one that does not comply with the solicitation instructions and/or specifications. Beginning with the day following receipt of notice of rejection, there shall be a period of five (5) business days in which a vendor whose bid or proposal was found nonresponsive may appeal such decision to the UPD. Notice of appeal must be delivered to the University Purchasing Director at 921 South 8<sup>th</sup> Avenue, Administration Building Room 229, Pocatello, Idaho, 83209 by 5 PM Mountain Time of the deadline date.

C. Award to a successful vendor.

- (1) A vendor whose bid or proposal is considered may, within five (5) business days following receipt of notice that his bid or proposal is not being selected to award a contract to, appeal to the UPD. Notice of an appeal of award must be delivered to the University Purchasing Director at 921 South 8<sup>th</sup> Avenue, Administration Building Room 229, Pocatello, Idaho, 83209 by 5 PM Mountain Time of the deadline date. The appeal shall set forth in specific terms the reasons why the original award is thought to be erroneous. Within three (3) business days of receipt of the appeal, the UPD shall:
  - a. Deny the application, and provide a written explanation as to the reasoning for the decision; or
  - b. Appoint a review committee to review the record to determine whether the original selection of the lowest responsible bidder or proposer is correct.

D. Sole Source Appeals Process:

- (1) In the case of a sole source procurement, there shall be a period of not more than five (5) business days from the last date of public notice in which any vendor, able to sell or supply the item(s) or service to be acquired, may notify the UPD, in writing, of intention to challenge the sole source procurement and briefly explain the nature of the challenge. Notice of a sole source challenge must be delivered to the University Purchasing Director at 921 South 8<sup>th</sup> Avenue, Administration Building Room 229, Pocatello, Idaho, 83209 by 5 PM Mountain Time of the deadline date.
- (2) It is the vendor's responsibility to provide clear and complete reasoning as to the nature of the challenge.
- (3) Upon receipt of the challenge, the UPD will review the materials and rule on the challenge. The UPD may choose to assemble a team to assist in the review. An explanation of the decision and reasoning will be provided in writing to the appealing vendor within ten (10) business days from the receipt of the challenge.
- (4) If the challenge is upheld, notice will be provided to the vendor community via the University Purchasing website.