

## **8.8 Protest Procedures**

### **8.8.1 Filing of Protests**

An interested party, as defined in the section below, may file a protest with CATS regarding the solicitation, evaluation, or award of a contract in accordance with the procedures set forth herein. Such protests must be submitted in writing to the attention of the Procurement Officer named in the solicitation documents or, in the case of an appeal, to the Chief Procurement Officer at the following address:

City of Charlotte  
General Services - City Procurement  
600 East Fourth Street, 3rd Floor  
Charlotte, NC 28202

### **8.8.2 Interested Parties**

For purposes of this procedure, "interested parties" shall be defined as follows:

1. With respect to complaints concerning the terms, conditions, or form of a proposed procurement action, any prospective bidder whose direct economic interest would be affected by the award, or failure to award a contract.
2. With respect to complaints concerning award decisions, only those actual bidders who have submitted a bid in response to a CATS solicitation and who would be eligible for selection as the successful bidder for the award of the contract if CATS deems the protest meritorious.

### **8.8.3 Requirements**

In order for a protest to be considered, the written protest shall contain the following elements, at a minimum:

1. Name and address of the protestor and name of contract.
2. The relationship of the protestor to the procurement sufficient to establish that the protest is being filed by an interested party as defined herein.
3. The specific act or omission being protested.
4. The basis for the protest.
5. Any and all documentation supporting the allegations in the protest
6. A statement of the specific relief requested.

If the protest fails to comply with any of the preceding requirements, CATS reserves the right to refuse to consider the protest and return the protest to the protestor.

#### **8.8.4 Timing**

All protests must adhere to the following deadlines:

Pre-bid. Protests concerning the terms, conditions, or proposed form of procurement action must be submitted at least five (5) working days prior to the date established for the opening of bids or receipt of proposals.

Pre-Award. Protests concerning a recommendation for award, on any ground not based upon the content of the bid or proposal, must be filed with CATS within five (5) working days after the bid opening date. CATS reserves the right to award a contract during protest.

Post-Award. Protests concerning award decisions, on any ground not based upon the content of the bid or proposal, must be filed with CATS within five (5) working days after such aggrieved person knows, or should have known, of the grounds of the protest.

#### **8.8.5 Review**

The Procurement Officer will respond in writing to the protestor within five (5) working days. The response will include a detailed discussion and determination regarding each substantive issue raised in the protest. The Protestor may appeal the Procurement Officer's decision to the Chief Procurement Officer. Any such appeal must be in writing and submitted within five (5) working days of the receipt of the Procurement Officer's decision. The Chief Procurement Officer will review the appeal and respond to each substantive issue raised in the appeal. The Chief Procurement Officer shall render a decision and send a formal written response to the protestor within five (5) working days. The Chief Procurement Officer's response shall be the final decision by CATS. The Procurement Officer or Chief Procurement Officer reserves the right to extend the period in which to respond beyond five (5) days if the issues presented in the protest so warrant.

The protestor may file a request for reconsideration of the final decision, within five (5) working days of such decision, if one or more of the following occurs:

1. New or additional data not previously known becomes available.
2. There has been an error of law or regulation.

#### **8.8.6 Protests of Federally Funded Projects**

If the protested procurement involves the use of federal funds, the protestor may appeal the final decision of CATS to the Federal Transit Administration (FTA). Generally, FTA will review a protest only if the grantee (CATS) failed to follow its protest procedures. Any such appeal must be filed in accordance with FTA Circular 4220.1F. In all instances involving FTA funds, CATS will disclose information regarding the protest to the FTA, and keep the FTA informed about the status of the protest. All protest decisions will be in writing, and a protester must exhaust all administrative remedies with CATS before pursuing a protest with the FTA.

\*\*\*END OF SECTION\*\*\*