

Boise State University **Purchasing Appeals Process**

Submitting a bid to the University constitutes standard 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 Vice President of Finance and Administration 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:

- Bid 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 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 bid specification challenge must be delivered to the University Purchasing Director at University Plaza Building, 960 Broadway Ave., Suite 300, Boise, Idaho, 83706 by 5pm 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 further reviewed. If the challenge is denied immediately, the vendor will receive a written decision setting forth the reasoning 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 sought to be acquired, shall be notified of the appeal and intention to review the specification 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 University's notice of specification review

- c. The UPD may refer the challenge 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; 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.
- Determination by the University that the bid is non-responsive and does not comply with the bid invitation and specifications
 - (1) A nonresponsive bid is a bid which does not comply with the bid invitation and specifications. Beginning with the day following receipt of notice of rejection, there shall be a period of five (5) business days in which a bidder whose bid was found nonresponsive may appeal such decision to the UPD. Upon receipt of the appeal, UPD will review the materials and rule on the challenge. An explanation of the decision and reasoning will be provided in writing to the appealing vendor within five (5) business days from the receipt of the appeal.
 - Award to a successful vendor
 - 1. A vendor whose bid is considered may, within five (5) business days following receipt of notice that he is not the lowest responsible bidder, appeal to the UPD. Notice of an appeal of award must be delivered to the University Purchasing Director at University Plaza Building, 960 Broadway Ave., Suite 300, Boise, Idaho, 83706 by 5pm 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 is correct.
2. A review committee may rely on the documents of record, statements of employees of the state of Idaho participating in any phase of the selection process, and statements of any vendor submitting a bid.
3. After committee review, the vendor will receive a written response containing the reasoning for the decision.
4. If the appeal is denied, the contracting process may continue with the successful bidder.
5. If the appeal is upheld, the UPD would notify the original successful bidder that they are not the lowest responsible bidder.

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) 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 University Plaza Building, 960 Broadway Ave., Suite 300, Boise, Idaho, 83706 by 5pm 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, 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.