



## SAN DIEGO COMMUNITY COLLEGE DISTRICT

### Administrative Procedure

#### CHAPTER 6 – BUSINESS AND FINANCIAL SERVICES

#### AP 6330.6 Bid Request for Proposal Questions and Protest

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Office of Primary Responsibility:

Vice Chancellor of Business Services  
Director of Purchasing and Contract Services

During the period that a Bid or Request For Proposal is in process, vendors may question terms, conditions, specifications, and/or District Procedures. Typically, vendors will raise issues and discuss concerns informally with the responsible Buyer. At this level, most issues are explained, understood, and resolved. However, persistent problems must be managed by a process for hearings and appeals which is available to all, facilitates good communication, and provides a fair and reasonable airing of the issue(s).

The following Procedure and principles shall control the handling of all Bid and Request For Proposal questions, challenges, and protests:

#### FUNCTIONS AND PRINCIPLES

1. It shall be the duty of the Buyer to employ sound judgment and professional knowledge when pursuing any reasonable accommodation or solution that can resolve the conflict(s) brought forward by any vendor.
2. In all cases where a tentative solution will cause a process change or variance, the Buyer will commit only to recommending the solution to management for review and approval. After management makes a decision, that decision will be communicated to the vendor as soon as possible.
3. When persistent disagreement is evident, the Buyer will provide the vendor with a copy of this Procedure. If the vendor wants to elevate the dispute, the formal process will be recommended. In no case does this Procedure prevent vendors from informally approaching and/or discussing matters with supervision/management within Purchasing and Contract Services.
4. Protests may be filed at any time a problem arises and when attempts to resolve it have not satisfied the affected vendor. Timelines and steps may be waived by mutual consent.
5. The principles that govern all such discussions and solutions shall be those of fairness, impartiality, and legality.

## FORMAL PROTESTS

1. **STEP ONE:** A formalized protest shall begin with the requirement for an affected vendor to reduce to writing a summary of his/her concern(s) with sufficient detail to allow a full understanding of the issue. This communication should be in letter format, contain a specific request for a formal review of the issue(s), be on company letterhead signed by a recognized agent or officer of the company, and should be addressed to the Director of Purchasing and Contract Services, with a copy to the Vice Chancellor of Business Services. The following shall then occur:
  - a. An appointment for the vendor shall be scheduled with and by the Director of Purchasing and Contract Services. If the vendor is not able to attend a meeting, effort shall be made to hold a teleconference session.
  - b. At such appointment, the vendor shall present any and all information and reasoning that is directly related to the issue(s) at hand. The responsible Buyer shall be in attendance, if at all possible.
  - c. It shall be the objective of the Director to gather any and all related information by listening to the vendor's presentation of the issue(s), and to engage in dialogue that provides for an objective exploration of the facts, circumstances, and any related statutes, case law, policies, or procedures.
  - d. The Director may provide an administrative determination at the conclusion of this meeting only if the matter is one that is well understood; believed to be clearly supported by law; consistent with the policies, procedures and practices of the District; and is professionally and ethically sound.
  - e. When the Director renders a decision, whether at the meeting or after further study, the determination must be reduced to writing and issued no later than ten (10) working days from the date of the meeting. This determination, along with the vendor's original letter of protest, and any related materials, shall be filed in the office of the Director, with an official copy to the Vice Chancellor of Business Services.
2. **STEP TWO:** This is a second-level management appeal.
  - a. A vendor may decide that it is in his/her best interest to appeal or challenge the decision of the Director, and, if that is the case, would present said appeal or challenge to the Vice Chancellor of Business Services.
  - b. This step should procedurally parallel the first management appeal, and will proceed only upon filing a written request, stating the basis for further reconsideration, with a copy being sent to the Director.
  - c. This may be exercised at the discretion of the affected vendor only. If exercised, this will normally be the final staff review on the issue(s), and a copy of the decision must be sent by the Vice Chancellor of Business Services, to the appellant and the Director of Purchasing and Contract Services.
3. **STEP THREE:** This is an appeal/public presentation to be heard before the Board of Trustees in public session. To initiate a Board appeal/presentation, a vendor should first complete Steps One and Two.

A vendor may then elect to file a written request with the Board Office, summarizing the basis for appealing the findings previously rendered. Such presentations are governed by Board Policy 2345.

- a. The Board will make a reasonable effort to schedule and hear such presentations as early as possible, usually at the next regular business meeting.
- b. The Board shall have the opportunity to question the vendor and staff for clarification and understanding.
- c. The Board will take the issue and testimony under submission, and will render a formal, written determination within thirty (30) days of the hearing.
- d. The decision of the Board is final.

References: BP 6330  
California Education Code;  
Public Contract code; Board Policy 345

Approved by Chancellor:

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Date

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Constance M. Carroll, Ph.D.

Reviewed by Cabinet on 9-22-09 and approved by concurrence.