

## **P3305 APPEALING PURCHASING SPECIFICATIONS OR RECOMMENDATIONS**

**Vendors wishing to appeal specifications or recommendations regarding bids/proposals must do so through the appropriate channels. School district expenditures exempted from public bid solicitation under K.S.A. 72-1151 and amendments thereto and other laws are not subject to the bid requirement except as otherwise provided for in Request for Bid/Proposal or other similar documents.**

Administrative Implemental Procedures:

1. **Non-Construction:** The following applies to the protest of Non-Construction specifications that are not exempt from K.S.A. 72-1151.
  - a. Non-construction purchases involve the purchase of items, goods, materials, or wares necessary for the operation of the District where construction labor is not included.
  - b. A protest of specification(s) must be submitted in writing or by fax and time-stamped by the Purchasing Department by 4:00 p.m. of the day before the due date and time listed on the bid solicitation documents. E-mail notification will not be accepted.
  - c. In the event of a timely protest the Purchasing manager or designee shall proceed no further until a final decision is rendered. During this protest process, the solicitation will be frozen from opening/closing; however, this does not relieve vendors from submitting their solicitation documents by the date/time outlined in documents. A protest may be finally resolved at any one of the following levels:
    - i. The specification(s) shall be reviewed by the Purchasing manager or designee and a decision will be rendered. After notification of a decision, if the vendor would like to appeal, the vendor must notify the Purchasing manager or designee within 24 hours of the rendered decision or within one hour of the start of the next District business day if the end of the 24-hour period falls outside a District business day. If an appeal is not filed, the decision of the Purchasing Manager is final.
    - ii. If an appeal is filed, the specification(s) shall be reviewed by the Division Director of Operations, and a written decision will be rendered, which will be a final decision.
2. **Non-Construction:** The following applies to the protest of Non-Construction recommendations that are not exempt from K.S.A. 72-1151.
  - a. A protest of recommendation(s) for award of bid must be submitted in writing to the purchasing manager or designee no later than twenty-four (24) hours following the public posting of the formal, written recommendation for award. (Protest of specifications are not allowed at this stage.) In the event of a timely protest, the purchasing manager or designee shall proceed no further until the protest is resolved. When recommendations for the award are made less than thirty (30) hours prior to a Board of Education meeting, protests must be filed prior to or at the Board meeting before the award of the bid occurs. The Board will defer award of bids in situations where a protest is timely made in a Board meeting.
  - b. A protest may be resolved at any one of the following levels of appeal, in sequential order:
    - i. The recommendation(s) shall be reviewed by the Purchasing Manager or designee and the appropriate personnel, and a decision will be rendered. After notification of a decision, the vendor must notify the purchasing manager or designee within twelve (12) hours of the rendered decision or within one hour of the start of the next

District business day if the end of the 24-hour period falls outside a District business day if the vendor intends to make an appeal to the Superintendent's designee.

- ii. If an appeal is filed, the recommendation(s) shall be reviewed by the Superintendent's designee and a written decision will be rendered, which will be the final decision.

3. **Construction:** The following applies to the protest of Construction specifications and addendums that are not exempt from K.S.A. 72-1151.

- a. Construction means construction, reconstruction and remodeling of facilities.
- b. A protest of plans and/or specification(s), including addendums, must be submitted in writing, via facsimile transmission or hand-delivered to the Purchasing Department within a minimum of forty- eight (48) hours prior to the due date and time listed on the bid solicitation documents. Email notification will not be accepted.

Provided however, a protest of an addendum issued less than fifty-two (52) hours prior to the due date and time listed on the bid solicitation document must be submitted in writing via facsimile transmission or hand-delivered to the Purchasing Department within a minimum of not less than four (4) hours prior to the date and time listed on the bid solicitation documents.

In the event of a timely protest the purchasing manager or designee shall proceed no further until the protest is resolved. During this protest process the solicitation will be frozen from opening/closing; however, this does not relieve contractors from submitting their solicitation documents by the date/time outlined in solicitation documents. A protest may be resolved at any one of the following levels of appeal:

- i. The specification(s) in question shall be reviewed by the Director of Design & Construction or designee and a decision will be rendered. After notification of a decision the contractor must notify the Director of Design & Construction or designee in writing, within twelve (12) hours of the rendered decision or within one (1) hour of the start of the next District business day if the end of the 24-hour period falls outside a District business day, if they intend to make an appeal to the Superintendent or designee. If no appeal is filed, the Director of Design and Construction's decision is final.
- ii. If an appeal is filed, the specification(s) shall then be reviewed by the Division Director of Facilities and a written decision will be rendered which will be a final decision.

4. **Construction:** The following applies to the protest of Construction recommendations that are not exempt from the bid law.

- a. A protest to recommendation(s) for award of bid must be submitted in writing to the Director of Design & Construction or designee no later than twenty-four (24) hours following the public posting of the written recommendation for award by the Director of Design & Construction or in the published Board of Education agenda, whichever is posted first, or 8:45 a.m. of the start of the next District business day if the end of the 24-hour period falls outside a District business day. (Protest of specifications is not allowed at this stage.) If possible, written recommendation(s) shall be posted publicly by the close of business on the Thursday prior to the following Monday evening Board of Education meeting. In the event of a timely protest, the Director of Design &

Construction or designee shall proceed no further until the protest is resolved. When recommendations for the award are made less than thirty (30) hours prior to a Board of Education meeting, protests must be filed prior to or at the Board meeting before the award of the bid occurs. The Board will defer award of bids in situations where a protest is timely made in a Board meeting. A protest may be resolved at any one of the following levels of appeal, in sequential order:

- i. The recommendation(s) shall be reviewed by the Director of Design & Construction or designee and the appropriate personnel, and a decision will be rendered. After notification of a decision the contractor must notify the Director of Design & Construction or designee within six (6) hours of the rendered decision or within one hour of the start of the next District business day if the end of the six-hour period falls outside a District business day, if the contractor intends to make an appeal to the Superintendent or designee.
- ii. If an appeal is filed, the recommendation(s) shall be reviewed by the Superintendent or designee and a written decision will be rendered which will be a final decision.

Administrative Responsibility: Operations Division – Purchasing

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