

CITY OF
GAINESVILLE

FINANCIAL SERVICES
PROCEDURES MANUAL

CHAPTER: 41-000 Purchasing

EFFECTIVE DATE: January 1, 2007 (revised 12/17/09)

- Establish and communicate a consistent and acceptable method of submitting agenda items for purchase of goods or services to the City Commission, and
- Define the responsibilities of both Purchasing and the Ordering Department in this process.

41-571 Preparing the Agenda Item

Prepare the agenda item for submittal to the City Commission after evaluation of the bid and decision to award. Purchasing will assist with Agenda content preparation upon request.

Prepare bid tabulation for attachment to agenda item. If tabulation includes total points rather than specific scores, i.e., RFP total points, provide complete evaluation backup, showing prices bid for City Manager's information.

41-580 BID PROTESTS

41-581 Filing the Protest

Any actual or prospective bidder or proposer, who could reasonably be expected to obtain the work if its protest is granted, may protest in writing to General Government Purchasing to the attention of the Purchasing Manager. This is for all solicitations or awards, regardless of means – centralized purchasing or decentralized purchasing.

A protest with respect to the solicitation, including, but not limited to, the contents of the specifications or evaluation criteria set forth in the Invitation to Bids, Request for Proposals (RFP) or Request for Statements of Qualifications (RFQ), shall be filed with General Government Purchasing, to the attention of the Purchasing Manager, within five (5) days of the issuance of the solicitation.

Except in the case of the LSBPP, a protest of a rejection of proposal/bid(s) by the Purchasing Manager shall be filed within five (5) business days of sending of notification of the nature of the rejection. A bid/proposal rejection for failure to comply with the Local Small Business Procurement Program (LSBPP) shall be processed in accordance with the provisions of the LSBPP.

A protest with respect to an intended award shall be filed within five (5) business days of the issuance of the notice of intended award.

For the purpose of sections 41-581-584, all periods of time shall be calculated as follows: the day of posting, faxing, mailing, receipt, issuance, etc., shall not be counted and the last day of the period shall be included. A business day is defined as any day for which General Government

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Purchasing is open for business to the general public. Notification is defined as fax, mail, or e-mail.

In cases where Federal or State regulations require the mailing of a notice of intent to award, the period for appeal shall be five (5) business days from the date of issuance of such notice. Filing shall mean actual receipt of the written protest by the Office of the Purchasing Manager.

The City may, in the exercise of its sole discretion, withhold the award or extend the solicitation pending resolution of the protest.

41-582 Format of Protest

Protests shall:

1. Be legible
2. Contain facts clearly supporting the proposition that the protester has a reasonable likelihood of submitting a responsive, responsible bid or proposal if the protest of the solicitation is successful; or

Contain facts clearly supporting the proposition that the protester has reasonable likelihood of obtaining the work if the protest is successful.
3. State clearly the protester's required adjustment or remedy.
4. Include a Power of Attorney and/or Corporate Seal which verifies that the protester has legal authority to act on behalf of his/her company, corporation or recognized legal entity.
5. State the date that the protester became aware of the alleged aggrieved incident.
6. If the protest involves a specification or specific language contained in the solicitation document, specifically identify the specification or language upon which the protest is predicated and why and how such is allegedly improper.
7. Include all relevant information which the alleged aggrieved party feels is pertinent to the protest.
8. Include a sworn statement that the protester is acting alone and not in concert with any other party for any other reason but direct financial interest.

The Purchasing Manager shall reject and return a protest not complying with the above criteria, noting the deficiencies. The protester shall have one opportunity to timely resubmit a protest

meeting all criteria; failure to do so shall constitute abandonment and withdrawal of the protest. Protest proceedings shall be limited to matters raised in the protest, unless sound discretion requires otherwise.

41-583 Process to Protest Award

1. Protests involving awards which do not require prior approval of the City Commission or protests relating to the solicitation of such, shall be heard by the Finance Director, or designee, whose decision shall be final.

Within five (5) business days of receipt of a timely protest complying with the above requirements, the Purchasing Manager or designee shall notify the protester of the opportunity to be heard by the Finance Director or designee. Not less than three (3) business days written notice of the hearing date shall be provided. All bidders/proposers shall be notified of the protest and the scheduled meeting time. Any bidder/proposer desiring to attend the meeting in order to protect its interests may do so.

The Finance Director shall within five (5) business days of the hearing render his/her decision in writing to the protester and make available the record upon which his/her decision was based.

The final decision of the Finance Director may be subject to additional review if required under State or Federal regulations.

Reports shall be made to the City Commission of any Bid Protest for purchases that do not require approval of the City Commission.

2. A. Protests involving awards which require prior approval of the City Commission, or protests relating to the solicitation of such, shall be heard by the Department Head or designee of the department for whose benefit the award is to be made, who may obtain assistance of the Finance Director or Designee and/or a representative of the Project Engineer, Architect, or other person having the responsibility for preparation of the specifications or having knowledge of the service/product being acquisitioned or designee. Within five (5) business days of receipt of a timely protest complying with the above requirements, the Purchasing Manager or designee shall notify the protester of the opportunity to be heard by the Department Head or designee. Not less than three (3) business days written notice of the hearing date shall be provided. All bidders/proposers shall be notified of the protest and the scheduled meeting time. Any bidder/proposer desiring to attend the meeting in order to protect its interests may do so. The Department Head or designee shall within five (5) business days of the close of the hearing render his/her recommended decision

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in writing to the City Manager along with the record upon which his/her decision was based.

The City Manager or other Charter Officer shall review the recommendation and record and cause written notice of his/her decision to be given to the protester within five (5) business days of receipt of the Department Heads recommendation, and make the record upon which the decision is based available.

- B. A bidder or proposer who has exhausted the procedures in 2A above may appeal the decision of the City Manager, or other Charter Officer as applicable, to the City Commission or designee, which appeal shall be scheduled by the Charter Officer involved. The appeal must be filed with the Purchasing Manager within three (3) business days of receipt of the Charter Officers' decision. It is the responsibility such protester to make copies of the record available for each City Commissioner or the City Commission's designee, if applicable, at least seven (7) business days in advance of any scheduled hearing.

The appeal shall:

1. Be legible
2. Contain argument, and facts based upon the record, indicating that the protester has a reasonable likelihood of submitting a responsive, responsible bid or proposal if appeal of the solicitation is successful; or

Contain facts clearly supporting the proposition that the protester has reasonable likelihood of obtaining the work if the appeal is successful.
3. State clearly the protester's required adjustment or remedy.
4. Address those areas or matters in the Charter Officers' decision which the protester/appellant believes:
 - i. Are not based on substantial competent evidence in the record, by reference to the record;

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- ii. Are materially inconsistent with applicable City policies, practice or procedures, by reference to such inconsistencies;
- iii. Do not conform with the essential requirements of law, with specific reference to the matter involved and the specific law or legal principle violated.

C. The City Commission or designee shall review the decision of the Charter Officer, the record before the Charter Officer, and written or oral argument of the parties involved in the appeal. No new evidence shall be considered and the City Commission may only reverse or modify the decision of the Charter Officer upon a determination that his/her decision was not based on substantial competent evidence or that his/her reasoning or application of the policies, procedures and law was fundamentally flawed. The decision of the City Commission or designee shall constitute final action and shall be issued within 15 days of the close of the hearing.

3. All bidders/proposers shall be notified of appeals and the scheduled meeting time.

Any bidder/proposer desiring to attend the meeting in order to protect its interests may do so.

The final decision of the City Commission or designee may be subject to additional review if required under local, State or Federal regulations.

41-584 Protests of Projects Funded Under Federal Grant Programs

With regard to projects funded in whole or in part under Federal Grant or State Programs, the aggrieved party may have additional rights regarding protest appeals under applicable laws or regulations.

It is the responsibility of the aggrieved party to protect such rights as may be provided under said Federal or State law or regulations.