



**POLICY #  
2004**

<b>Title:</b>	<b>Provider Grievance Procedures</b>
<b>Programs:</b>	All
<b>Department</b>	Legal
<b>Effective:</b>	11/30/2022

**I. PURPOSE AND SCOPE**

To implement a procedure regarding protests to request for proposals, protests regarding determinations of non-responsiveness, protest to contract awards, disputes related to the negotiation of terms and or conditions, disputes or grievances related to executed contracts and a procedure for monitoring and audit findings. This policy applies to all submitting a response to a publicly advertised procurement, submitting written quotes, have experienced a failed contract negotiation, or have entered into a contract with CareerSource Palm Beach County (CSPBC).

**II. BACKGROUND**

Code of Federal Regulations (CFR) 2.200.318 (a) states: “The Non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward.”

**III. AUTHORITY**

[Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments - 29 CFR Part 97](#)

[General Procurement Standards - 2 CFR Part 200.318](#)

#### **IV. POLICY AND PROCEDURES**

All Requests for Proposals (RFP) bid protests, or grievances related to negotiation of contracts, suspension or termination of contracts and monitoring and audit findings shall comply with and be subject to this policy.

##### **A. PROTESTS TO REQUEST FOR PROPOSAL SPECIFICATIONS**

1. Any protest of the terms, conditions, or specifications in a Bid, Intent to Negotiate, or RFP must be filed in writing and delivered to the CSPBC President/CEO within 72 hours of the first publication of the RFP, ITN or Bid. The time of the publication of the RFP, ITN or Bid shall be from the date at which posting of the Bid, ITN, or RFP is first published on the CSPBC website. Calculation of the 72 hours commences on the date of publication without reference to the time published.
2. Failure to file a written protest in accordance with paragraph 3. below within 72 hours of the first posting of the RFP, ITN or Bid shall constitute a waiver of all rights and acceptance of the terms and conditions of the RFP, ITN or Bid and no other opportunity to protest the contents of the RFP, ITN, or Bid shall be considered. Protests may not be submitted electronically but must be in writing and delivered and received by the CSPBC President/CEO of within the established timeframes.
3. The written protest shall state with particularity and specificity the sections of the RFP, ITN, or Bid that are the basis of the protest and the law, state and/or CSPBC policies or procedures that have been violated. Each claim shall be numbered separately within the protest. The protest must also indicate the relief requested for each separate claim. Protests, which do not contain the required information, shall be deemed to be non-conforming and shall not be considered. Protesters may not file general letters or other communications to meet the time deadlines with the intent to cure or amend their protests after the time to file has expired. The responsibility for meeting this minimum threshold shall be with the entity or individual desiring to file a protest. CSPBC will not be responsible for notifying protesters of defects in their filing.
4. Following receipt of the protest a meeting shall be scheduled between CSPBC senior management personnel or the President/CEO or his/her designee and the protester for the purpose of informally resolving the protest. The informal meeting to resolve the protest shall be scheduled within ten days after receipt of a properly and timely submitted protest. The results of the meeting shall be reduced to writing by CSPBC. If the matter is resolved, no further action shall be taken. If, as a result of the informal meeting, it is determined that changes be made to the specifications, appropriate notice of

amendment to the Bid, ITN or RFP specifications shall be posted on the CSPBC website.

5. If the matter is not resolved informally, the protester may present its protest at a hearing for the purpose of hearing the protest within 20 days after the informal meeting. The hearing officer shall be selected by CSPBC. All discovery shall take place within 10 days after the informal meeting and may include:
  - a. A witness list from each party
  - b. Any documents whether electronic or hard copies, that are relevant to the protest and not privileged information.
  - c. Parties shall exchange witness lists and documents on the 10<sup>th</sup> day.
6. Both parties will have the opportunity to present witnesses and documentary evidence at the hearing. Witnesses will be limited to three (3) for each side. The hearing shall be audio or video recorded by CSPBC and the decision of the hearing officer shall be final.
7. Action of the hearing officer on the protest shall be the final avenue of appeal with respect to RFP, ITN or Bid specification protests. The hearing officer shall also make recommendations regarding any extensions to the time to respond to the Bid, ITN or RFP as a result of the protest.
8. CSPBC shall in its sole and absolute discretion make a determination regarding the continuation of the procurement process. CSPBC will post instructions regarding the procurement in question on its website. Proposers may be instructed to submit responsive proposals in accordance with the time frames set forth in the RFP, ITN or Bid or may be allowed to amend only those portions of its RFP, ITN or Bid affected by the protest or may be given additional time to respond to the Bid, ITN or the RFP.

## **B. PROTESTS REGARDING DETERMINATIONS OF NON-RESPONSIVENESS**

1. Any protest of a determination by CSPBC staff regarding the responsiveness or non-responsiveness of a proposal, or bid submitted in response to an RFP, ITN, or bid published by CSPBC must be filed in writing and delivered to the CSPBC President/CEO within 72 hours of receipt of notice from CSPBC that the bid or proposal response is non-responsive. Calculation of the 72 hours commences on the date following receipt of notice without reference to the time notice was received. CSPBC may send the notice electronically via email, certified mail return receipt requested, overnight delivery. The communication from CSPBC shall state the reasons that the proposal is found to be non-responsive.

2. Failure to file a written protest in accordance with paragraph 3 below within 72 hours of receipt of notice of non-responsiveness shall constitute a waiver of all rights and acceptance of the terms and conditions of the RFP, ITN or Bid and no other opportunity to protest the contents of the RFP, ITN or Bid will be considered. Protests may not be submitted electronically but must be in writing and delivered and received by the CSPBC President/CEO within the established timeframes.
3. The written protest shall state with particularity and specificity the sections of the RFP or Bid, which are responsive to the specifications, and the law, state and/or CSPBC policies or procedures that have been violated. Each claim shall be numbered separately within the protest. The protest must also indicate the relief requested for each separate claim. Protests, which do not contain the required information, shall be deemed to be non-conforming and shall not be considered. Protesters may not file general letters or other communications to meet the time deadlines with the intent to cure or amend their protests after the time to file has expired. The responsibility for meeting this minimum threshold shall be with the entity or individual desiring to file a protest. CSPBC will not be responsible for notifying protesters of defects in their filing. Only entities that have submitted a proposal or a bid may file a protest in connection with a determination of non-responsiveness.
4. Following receipt of the protest, a meeting shall be set between CSPBC senior management personnel or the President/CEO or his/her designee and the protester for the purpose of informally resolving the protest. The results of the meeting shall be reduced to writing by CSPBC. If the matter is resolved no further action shall be taken. If, as a result of the informal meeting, it is determined that the proposal or bid is responsive the proposal or bid shall be evaluated and rated in accordance with the CSPBC process for the selection of contractors.
5. If the matter is not resolved, the protester may present their grievance at a hearing for the purpose of hearing the protest within 20 days after the informal meeting. The hearing officer shall be selected by CSPBC. All discovery, if appropriate, shall take place within 10 calendar days after the informal meeting and may include:
  - a. A witness list from each party.
  - b. Any documents whether electronic or hard copies, that are relevant to the protest and not privileged information.
  - c. Parties shall exchange witness lists and documents on the 10<sup>th</sup> day.
6. Both parties will have the opportunity to present witnesses and documentary evidence at the hearing. Witnesses will be limited to three (3) for each side.

The hearing shall be audio or video recorded by CSPBC and the decision of the hearing officer shall be final.

7. Action of the hearing officer on the protest shall be the final avenue of appeal with respect to the responsiveness or non-responsiveness of the proposal or bid.

### **C. PROTEST TO CONTRACT AWARDS**

1. Any protest of a contract award, following the termination of a procurement process, must be filed in writing, and delivered to the CSPBC President/CEO within 72 hours of the publication of the award. The time of the publication of the award shall be the earlier of:
  - a. The date at which notice of the award is published by CSPBC with respect to procurements not subject to CSPBC Board approval, or
  - b. The date on which the CSPBC Board of Directors meet at a publicly noticed meeting and vote on or approve the award.
2. Failure to file within 72 hours of the publication of the award shall constitute a waiver of all rights and no other opportunity to protest the award of the contract will be considered.
3. Only responsive entities or individuals who have submitted a responsive proposal within the timeframe for submission published in the RFP, ITN or Bid may protest an award.
  - a. Protests of awards are limited to claims with respect to any violation of law and/or regulations, or defect in the evaluation process. The written protest must separately number each claim and at a minimum include:
    - i. A descriptive recital of the facts pertaining to the protest, and
    - ii. A citation of the law and/or regulation, policy or procedure allegedly violated.
4. Following receipt of the protest a meeting shall be set within five to ten days of receipt between the CSPBC President/CEO or his/her designee and the protester for the purpose of informally resolving the protest. If the parties agree that the protest is meritorious, CSPBC will take proper action to remedy the situation. If the matter is resolved, no further action shall be taken. The parties may also agree to waive their rights to further relief. If the parties do not agree, the protest will proceed through the grievance process established herein. The results of the informal meeting shall be reduced to writing by CSPBC. If the parties agree to waive their rights to any further relief this decision shall be reduced to writing and signed by both parties prior to the close of the informal meeting. The party bringing the protest will be barred from any other protest with respect to the RFP, ITN or Bid in question.

5. If the Protestor is not satisfied with the decision of the CSPBC President/CEO or his/her designee during the informal resolution meeting, then CSPBC shall assign the matter to a Hearing Officer to be selected by CSPBC.
6. The hearing shall take place within 20 calendar days of the informal meeting. All discovery shall take place within 10 calendar days after the informal meeting and may include:
  - a. A witness list from each party.
  - b. Any documents whether electronic or hard copies relevant to the protest and not privileged information.
  - c. Parties shall exchange witness lists and documents on the 10<sup>th</sup> day.
7. Both parties will have the opportunity to present witnesses and documentary evidence at the hearing. Witnesses shall be limited to three for each side.
8. The hearing before the hearing officer shall be audio or video recorded by CSPBC.
9. The Hearing Officer shall issue a written recommendation within 10 days after the hearing.
10. The recommendations of the hearing officer shall be final.

**D. DISPUTES RELATED TO THE NEGOTIATION OF TERMS AND OR CONDITIONS OF AGREEMENTS OR WITH RESPECT TO THE FULFILLMENT OF THE TERMS AND CONDITIONS OF CONTRACTOR AGREEMENTS FOLLOWING EXECUTION**

1. A contract will be executed after successful negotiations with the recommended Contractor. In the event CSPBC is unable to successfully negotiate a contract with the recommended Contractor, as determined by CSPBC in its sole and absolute discretion, CSPBC may then negotiate with the second or third highest ranked Contractor and so on until a contract is executed or may decide to terminate the selection process. CSPBC reserves the right to negotiate all and any services and payments proposed by any successful Contractor. Proposals, which cannot be successfully negotiated, will not be funded. CSPBC reserves the right to not proceed to contract, provided such action is in the best interest of CareerSource and to reject a proposal selected by CareerSource, if CSPBC is unable to negotiate terms and conditions necessary to finalize a contract. CSPBC will engage the Contractor to perform the services described in this procurement and reserves the right to modify the procedures and services to be performed, as may be determined necessary, following award of the contract as they relate to CSPBC's fiscal and program responsibilities.

2. If during the course of providing services under a duly executed agreement CSPBC and a contractor have a dispute with respect to the terms and or conditions of the executed agreement, CSPBC senior management personnel shall meet with the provider to try and resolve the issue. If an agreement cannot be reached, CSPBC senior management personnel shall forward the issues in dispute to the CSPBC President/CEO. A summary of the issues in dispute shall be prepared for the CSPBC President/CEO and shall include a statement with respect to matter(s) in dispute. A copy of the report detailing the issues in dispute, along with a staff recommendation shall be provided to the contractor, who shall also have an opportunity to submit a summary of the issues and the relief they are requesting along with reason and or rationale. The two reports must be prepared in accordance with the schedule for distribution of the CSPBC President/CEO, which shall be provided to the parties. Written documents related to the dispute will not be allowed to be distributed the day of the CSPBC President/CEO meeting.
3. Both CSPBC and the contractor shall have an opportunity to make a statement to the CSPBC President/CEO and may answer questions posed by the CSPBC President/CEO.
4. The CSPBC President/CEO shall then determine the issues and shall make the final decision with respect to the matter(s) in dispute.

#### **E. PROCEDURE FOR MONITORING AND AUDIT FINDINGS**

1. If, as a result of federal state or local monitoring or audit any costs are found to be disallowed or questioned, CSPBC shall set up an informal meeting or shall communicate in writing to the contractor regarding the results of the findings in the report, at which time the contractor shall have the opportunity to submit any primary documentation to disprove the negative findings.
2. Following a review of the contractor's response CSPBC shall issue a written determination, which will state whether or not questioned costs are allowed or disallowed, and whether or not corrective actions regarding any administrative findings are adequate.
3. Any proposal regarding the resolution of the findings shall be subject to state and/or federal approval as appropriate. If CSPBC finds that the questioned costs are in fact disallowed, it shall include within its determination all repayment options that are available to the provider including but not limited to an automatic reimbursement plan that will be deducted from the providers invoices or such other relief as may have been set forth in the contract between the parties and other corrective action related to the findings.
4. If the findings are a result of state or federal monitoring, audit or reviews and CSPBC elects to appeal the findings in accordance with the process provided

by the state or federal authorities, the contractor shall cooperate with CSPBC in providing the necessary information to respond to the findings and shall be bound by the decision of the state or federal authorities. The decision of whether or not to appeal findings shall be solely at the discretion of CSPBC.

**V. DEFINITIONS**

**Intent to Negotiate (ITN)** – a flexible procurement process that is used for highly specialized, variable services and/or commodities.

**Request for Proposal (RFP)** – a business document that announces a project, describes it, and solicits bids from qualified proposers to complete it. RFPs must be used for purchases greater than \$250,000.

**VI. REVISION HISTORY**

Date	Description
11/30/2022	Approved by CareerSource Palm Beach County President/CEO
11/30/2022	Issued to CareerSource Palm Beach County staff

**VII. RESOURCES**

None