

**Office of General Services  
New York State Procurement (NYSPro)**

**DISPUTE RESOLUTION PROCEDURES**

- I. **Policy.** It is the policy of the New York State Procurement, a division of the Office of General Services to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to NYSPro bid solicitations, contract awards and contract administration. Interested parties are encouraged to seek resolution of disputes informally, through consultation with NYSPro staff prior to commencing a formal dispute process. All such matters will be accorded full, impartial and timely consideration.

Interested parties may also file a formal written dispute according to the following procedures.

II. **Formal Disputes.**

A. **Definitions**

1. Filed means the complete receipt of any document by NYSPro before its close of business.
2. Interested party for the purpose of filing a dispute relating to a solicitation, as used in this section, means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.
3. Interested party for the purpose of filing a dispute relating to a contract award, as used in this section, means an actual bidder or offeror for the subject contract.
4. Interested party for the purpose of filing a dispute relating to the administration of the contract, as used in this section, means the awarded Contractor for the subject contract.
5. Issuance of award means the Date of Issue identified on the Contract Award Notification transmitted by NYSPro.
6. Dispute means a written objection by an interested party to any of the following:
  - a. A solicitation or other request by NYSPro for offers for a contract for the procurement of commodities or services.
  - b. The cancellation of the solicitation or other request by NYSPro.
  - c. An award or proposed award of the contract by NYSPro.
  - d. A termination or cancellation of an award of the contract by NYSPro.
  - e. Changes in the Scope of the contract by the Commissioner of OGS.
  - f. Determination of "materiality" in an instance of nonperformance or contractual breach.
  - g. An equitable adjustment in the Contract terms and/or pricing made by the Commissioner during a force majeure event.

B. **Submission of Disputes**

1. A formal dispute by an interested party as defined in II.A.2, 3 or 4 must be filed in writing to NYSPro by mail, email or facsimile.
2. The dispute must include:
  - a. Name, address, e-mail address, fax and telephone numbers of the filer.
  - b. Solicitation or contract number.
  - c. Detailed statement of the legal and factual grounds for the dispute, including a description of resulting prejudice to the filer.
  - d. Copies of relevant documents.
  - e. Request for a ruling by the agency.
  - f. Statement as to the form of relief requested.
  - g. All information establishing that the filer is an interested party for the purpose of filing a dispute.
  - h. All information establishing the timeliness of the dispute.
3. Disputes must be filed with the Director of NYSPro at the following address:

**Director  
New York State Procurement  
A division of the Office of General Services  
38th Floor, Corning Tower  
Empire State Plaza  
Albany, NY 12242  
Facsimile: (518) 474-2437**

4. Disputes concerning a solicitation shall be filed by an Interested Party (see II.A.2) with NYSPRO no later than ten (10) business days before the date set in the solicitation for receipt of bids. If the date set in the solicitation for receipt of bids is less than ten (10) business days from the date of issue, formal disputes concerning the solicitation document shall be filed with NYSPRO at least twenty-four (24) hours before the time designated for receipt of bids.
5. Disputes concerning a pending or awarded contract must be filed within ten (10) business days by an Interested Party (see II.A.3) after the disputing party knows or should have known of the facts which form the basis of the dispute; however, a dispute may not be filed later than 10 days after issuance of the award.
6. Disputes concerning the administration of the contract after award (see II.A.6 d-g), must be filed within twenty (20) business days by an Interested Party (see II.A.4) after the disputing party knows or should have known of the facts which form the basis of the dispute.

**C. Agency Response**

1. OGS will consider all information relevant to the dispute, and may, at its discretion, suspend, modify, or cancel the disputed procurement/contract action prior to issuance of a formal dispute decision.
2. OGS reserves the right to require the Interested Party to meet or participate in a conference call with OGS to discuss the dispute when, in its sole judgment, circumstances so warrant.
3. OGS reserves the right to waive or extend the time requirements for decisions and final determination on appeals herein prescribed when, in its sole judgment, circumstances so warrant.
4. NYSPRO reserves the right to consider or reject the merits of any dispute.
5. Notice of Decision: A copy of the decision, stating the reason(s) upon which it is based and informing the filer of the right to appeal an unfavorable decision to the Chief Procurement Officer shall be sent to the filer or its agent by regular mail within thirty (30) business days of receipt of the dispute.

**D. Appeals**

1. Should the filer be dissatisfied with the dispute determination, a written appeal may be directed to:

**Chief Procurement Officer  
New York State Procurement  
A division of the Office of General Services  
38th Floor, Corning Tower  
Empire State Plaza  
Albany, NY 12242  
Facsimile: (518) 474-2437**

2. Written notice of appeal of a determination must be received at the above address no more than ten (10) business days after the date the decision is received by the filer. The decision of the Director of NYSPRO shall be a final and conclusive agency determination unless appealed to the Chief Procurement Officer within such time period.
3. The Chief Procurement Officer shall hear and make a final determination on all appeals or may designate a person or persons to act on his/her behalf. The final determination on the appeal shall be issued within twenty (20) business days of receipt of the appeal.
4. An appeal of the decision of the Director of NYSPRO shall not include new facts and information unless requested in writing by the Chief Procurement Officer.
5. The decision of the Chief Procurement Officer shall be a final and conclusive agency determination

**E. Legal Appeals**

Nothing contained in these provisions is intended to limit or impair the rights of any vendor or contractor to seek and pursue remedies of law through the judicial process.