

**CITY OF KEENE, NEW HAMPSHIRE
ADMINISTRATIVE DIRECTIVE**

No.: 2.01
Date Issued: 06/17/96
Effective Date: 06/17/96
Supercedes: N/A

I. SUBJECT

Bid Action Protest.

II. AUTHORITY

Section 1301.0, Central Purchasing, of Chapter 1300, Internal Operating Procedures of the City Code.

III. PURPOSE

To describe the procedure for bidders to protest bid awards which they believe to have been made in noncompliance with the City Code or standard procedures established by the City Manager.

IV. POLICY

This directive applies to the evaluation and award actions made under the sealed bid process, the request for proposal process described in the City Code, and Purchasing SOP #612 and #615. Excluded from this procedure are determinations of what goods and services are needed by the City; bid specifications, other than those determined to be overly restrictive; bid documents; and bid format matters which should be addressed prior to bid. Only an actual bidder is entitled to protest a bid action for a particular purchase.

V. RESPONSIBILITY


The Purchasing Division of the Finance Department is responsible for administering this A.D. with legal assistance from the City Attorney as may be required.

VI. PROCEDURE

- A. Upon completion of evaluation and award of contract, any bidder verbally protesting a bid award shall make a protest with the Purchasing Agent no later than 4:00 PM, on the third working day following the notification.
- B. Upon receipt of a notice of protest, timely filed, the Purchasing Agent shall hold award of the purchase order and/or contract, until the protest is resolved, unless the Purchasing Agent determines in that compelling circumstances exist which require that the order be processed without further delay, in order to protect the City's interest or for the purpose of avoiding an immediate and serious danger to the public health, safety or welfare.

- C. A formal written protest must be filed after the verbal protest. It must be received by the Purchasing Agent within seven calendar days after notification of the contract award.
- D. The formal written protest shall include:
1. bid or request for proposal number and title
 2. name and address of protester
 3. facts leading to the protest
 4. rules, regulations or statutes pertaining to the protest
 5. relief which the protester seeks
 6. any other information that the protester deems to be material to the protest
- E. The Purchasing Agent and the Finance Director shall meet with the protester within ten calendar days after receipt of the formal written protest for the purpose of discussing the protest and resolving it. The Finance Director shall submit his/her decision regarding the protest to the protester, by Certified Mail Return Receipt Requested, within seven calendar days after that meeting.
- F. The protester may appeal the decision of the Finance Director to the City Manager. The appeal must be in writing and must include a full explanation of the basis of disagreement with the decision rendered by the Finance Director, and the relief sought. The appeal must be filed with the Purchasing Agent within three working days of receipt of the written decision of the Finance Director. A written notice of the determination of the City Manager or his/her designee shall be mailed to the protester, by Certified Mail Return Receipt Requested, within ten calendar days of receipt.
- G. The decision of the City Manager or his/her designee may be appealed to the City Council. The appeal must be in writing and must be filed within three working days of receipt of the decision of the City Manager or his/her designee. The decision of the City Council shall be final.
- H. Failure by a bidder or proposer to file a protest on a timely basis within the time required at any step of this procedure, or failure to include the required information in the protest, shall invalidate or terminate the protest.

Approved:



John A. MacLean, City Manager

6/17/96

Date