

8.0 DISPUTES & REMEDIES

A. Types of Disputes

The Risk Manager and Director, Business Operations is authorized to settle and resolve any questions regarding:

1. Any protest concerning the *solicitation* or *award* of a *contract*;
2. Any controversy arising between the University and a *contractor* by virtue of a *contract* between them, including, without limitation, controversies based on breach of *contract*, mistake, misrepresentation or any other cause for *contract* modification or rescission; and,
3. As per delegation from the State of Colorado Purchasing Office, any dispute arising from *solicitations* and *contracts* through the State Buildings process which is initiated and managed by the Office of Design and Construction.

B. Costs of Filing

All costs associated with filing and prosecuting a protest or *contract* dispute shall be borne by the *protestor/contractor*.

C. Protests other than Contract Disputes

1. Filing of Protests

a. Subject of Protest

Protestors may file a protest on any phase of a *solicitation* or *award* including, but not limited to, *specifications*, *award*, or disclosure of information marked as confidential in a *solicitation* offer. Protests shall be submitted in writing within seven (7) working days after such aggrieved person knows or should have known of the facts giving rise thereto.

b. Form

The written protest shall include, at a minimum:

- (i) The name and address of the *protestor*;
- (ii) Appropriate identification of the *procurement* by *solicitation* number;
- (iii) A statement of the reasons for the protest; and
- (iv) Any available exhibits, evidence or documents substantiating the protest.

c. To Whom Addressed

The protest shall be addressed to the Risk Manager and Director, Business Operations and sent to the Office of Business Operations.

2. Requested Information

Any additional information regarding the protest should be submitted within the time period requested in order to expedite resolution of the protest. If any party fails to comply expeditiously with any request for information by the Risk Manager and Director, Business Operations, the protest may be resolved without such information.

3. Decision

The Risk Manager and Director, Business Operations shall render a written decision regarding the protest within seven (7) working days after the protest is received. The decision shall be based on and limited to a review of the issues raised by the *protestor* and shall set forth each factor taken into account in reaching the decision. The Assistant Vice Risk Manager and Director, Business Operations shall furnish a copy of the decision to the *protestor* in writing.

4. Stay of Procurement

In the case of protested *RFPs* only; there shall be a stay of *procurement* until the decision of the Risk Manager and Director, Business Operations is rendered, unless the Risk Manager and Director, Business Operations determines that execution of a *contract* without delay is necessary to protect substantial University interests.

5. Actions in Court

If a *protestor* has filed a complaint in court which complaint is also the subject of a protest filed with the Risk Manager and Director, Business Operations, the Risk Manager and Director, Business Operations will not review the protest.

6. Entitlement to Costs

When the Risk Manager and Director, Business Operations substantiates a protest and the *protestor* should have been *awarded* the *contract* under the *solicitation* but, due to a defect in the University's *solicitation* or process, was not, the *protestor* shall be entitled to the reasonable costs incurred in connection with responding to the *solicitation*. No other costs shall be permitted and reasonable costs shall not include attorney fees.

D. Contract Disputes

1. Statement of Policy

The terms and conditions of University *contracts* establish procedures and remedies to resolve *contract* and breach of *contract* controversies between the University and a *contractor*. It is the University's policy to try to resolve all controversies by mutual agreement through informal discussions without litigation. As used in these rules, the word "controversy" is meant to be broad and all encompassing, including the full spectrum of disagreements from pricing of routine *contract* changes to claims of breach of *contract*.

2. Situation Prior to Issuing Decisions

When a controversy cannot be resolved by mutual agreement, the Risk Manager and Director, Business Operations shall review the matter within twenty (20) working days after receiving a written request by the *contractor* for a final decision and shall issue a written decision.

3. Final Decision

The Risk Manager and Director, Business Operations shall furnish a written copy of the decision to the *contractor*. The decision shall include:

- a. A description of the controversy;
- b. A reference to the pertinent *contract* provision(s);
- c. A statement of the factual areas of agreement and disagreement; and
- d. The supporting rationale for the decision.

4. Actions in Court

If a *contractor* has filed a complaint in court which complaint is also the subject of a protest filed with the Risk Manager and Director, Business Operations, the Risk Manager and Director, Business Operations will not review the protest.