**Protest Procedures and Protest Bond Requirements**

**1. Right to Protest**

a. Protest procedures shall be included, or a link thereto, in all ITBs/RFQs/RFPs.

b. An aggrieved respondent may protest, in writing, to the Chief Procurement Officer within seven (7) calendar days from the date of notice of intent to award. Protests must be received by the Procurement and Contract Services office no later than the close of business of the seventh (7th) calendar day.

c. The following are the sole grounds for a protest:

(1) The award was arbitrary, capricious, an abuse of discretion, or exceeded the authority of the Chief Procurement Officer or University;

(2) The procurement process violated a constitutional, statutory, or regulatory provision;

(3) The Chief Procurement Officer/University failed to adhere to the rules of the procurement as set forth in the solicitation, and this failure materially affected the contract award;

(4) The procurement process involved responses that were collusive, submitted in bad faith, or not arrived at independently through open competition; or

(5) The award resulted from a technical or mathematical error during the evaluation process.

d. Any issues not raised by the protesting party after the expiration of the seven (7) calendar day period shall not be considered as part of the protest.

e. Protests shall include the required bond, as specified in Section 3. Protests received which do not include the required bond shall not be considered. A sample protest bond can be found on the Procurement and Contract Services [website](http://www.mtsu.edu/procurement/forms.php).

**2. Signature on Protest Constitutes Certificate**

a. A protest must be signed by an authorized company representative, who certifies that he/she has read such document, that to the best of his/her knowledge, it is well grounded in fact and that it is not submitted for any improper purpose, such as to harass, limit competition, or to cause unnecessary delay or needless increase in the cost of the procurement or of the litigation.

b. If the protest is submitted in violation of any provisions of this Section 1, appropriate sanctions, which may include removal from future bid opportunities and forfeiture of the protest bond, may be imposed.

**3. Protest Bond**

a. The protesting party shall post, with the Chief Procurement Officer, at the time of filing a notice of protest, a bond payable to the University in the amount of five percent (5%) of the lowest financial proposal evaluated, or five percent (5%) of the highest revenue proposal evaluated. Calculation of the value of the bond shall be made based on the total value of the procurement, including any renewals thereof. Such protest bond shall be in form and substance acceptable to the University and shall be immediately payable to the University conditioned upon a decision by the chief business officer of the University or designee that:

(1) There is a violation of section “Signature on Protest Constitutes Certificate”;

(2) The protest has been brought or pursued in bad faith; or

(3) The protest does not state on its face a valid basis for protest.

b. The University shall hold such protest bond for at least eleven (11) calendar days after the date of the final determination by the chief business officer.

c. At the time of filing notice of a protest, against a procurement, in which the lowest evaluated financial proposal is less than one million dollars ($1,000,000.00), or in which the highest evaluated revenue proposal is less than one hundred thousand dollars ($100,000.00), a minority, women, small, or Tennessee service disabled veteran-owned business protesting party may submit a written petition to the chief business officer for exemption from the protest bond requirement.

(1) Such a petition must include clear evidence of business classification which shall be validated with the ethnicity information supplied with the solicitation. The petition shall be submitted to the chief business officer who has seven (7) calendar days in which to make a determination.

(2) If an exemption from the protest bond requirement is granted, the protest shall proceed as though the bond were posted.

(3) Should the chief business officer deny an exemption from the requirement, the protesting party shall post the bond with the Chief Procurement Officer of the University as required in Section 3 within five (5) calendar days of the determination.

d. Authority to Resolve Protest

(1) The Chief Procurement Officer has the authority to resolve the protest. If deemed necessary, the Chief Procurement Officer may request a meeting with the protesting party to seek clarification of the protest issues.

(2) The final determination of the Chief Procurement Officer shall be given in writing and submitted to the protesting party.

(3) The protesting party may request that the final determination of the Chief Procurement Officer be considered by the Chief Business Officer. The request for consideration shall be made in writing to, and received by, the Chief Business Officer within seven (7) calendar days from the date of the final determination by the Chief Procurement Officer.

(4) The University’s Chief Business Officer has the authority to review and resolve the protest. If deemed necessary, the Chief Business Officer may request a meeting with the protesting party to seek clarification of the protest issues. The final determination of the Chief Business Officer shall be given in writing and submitted to the protesting party.

(5) The protesting party may request that the final determination of the Chief Business Officer be considered by the President or designee. The request for consideration shall be made in writing to, and received by, the President or designee within seven (7) calendar days from the date of the final determination by the Chief Business Officer.

(6) The determination of the President or designee is final and shall be given in writing and submitted to the protestor.

(7) The University shall have no longer than sixty (60) Calendar Days from receipt of the protest to resolve the protest.

e. Stay of Award

(1) Prior to the award of a purchase order and/or contract, a proposer who has protested may submit to the Chief Procurement Officer a written petition for stay of award. Such stay shall become effective upon receipt by the Chief Procurement Officer.

(2) The Chief Procurement Officer shall not proceed further with the solicitation process or the award until the protest has been resolved in accordance with this section, unless the chief business officer makes a written determination that continuation of the solicitation process, or the award, without delay is necessary to protect substantial interests of the University.

Reference: T.C.A. §12-3-514