



STATE OF WISCONSIN
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CORRESPONDENCE MEMORANDUM

DATE: October 16, 2015

TO: Deferred Compensation Board

FROM: Lucas Strelow, Policy Analyst, Office of Policy, Privacy and Compliance
Steve Hurley, Director, Office of Policy, Privacy and Compliance

SUBJECT: Revised Vendor Procurement Appeals Policy

Staff recommends the Deferred Compensation Board (Board) approve the revised Vendor Procurement Appeals Policy (Attachment A).

The Board's Vendor Procurement Appeals Policy guides the handling of vendor appeals of procurement awards made by the Board, as authorized under Chapter 40 of the Wisconsin Statutes. Solicitations for requests for bids and requests for proposals include provisions that instruct bidders on the process for appealing a contract award. Handling of appeals relating to Chapter 40 procurements is similar to treatment of appeals under Chapter 16, but is a separate process.

This revision makes a minor change in the title of the document and adds one word in item 5 and item 8, to clarify that the period in which the vendor can provide a formal appeal is ten *business days*. This comports with the period stated in item 3 of the policy for the vendor to provide the Board with its notice of intention to appeal, which is five *business days*. Once approved, the revised policy will be included in the Board's Governance Manual.

Staff will be at the Board meeting to answer any questions.

Attachment A: Vendor Procurement Appeals Policy

Reviewed and approved by Pamela Henning, Assistant Deputy Secretary

Electronically Signed 10/21/2015

Board	Mtg Date	Item #
DC	11.03.15	11B

Deferred Compensation Board ProcedurePolicy
Vendor Procurement Appeals

Adopted: February 19, 2013

Revised: March 12, 2015

Authority: Wis. Stat. §§ 40.80(1), (2)

Phase One: Notice of Intention to Appeal Received by Deferred Compensation Board c/o ETF Secretary

1. The Deferred Compensation Board (Board) authorizes ETF staff to issue the "Intent to Award" to the successful bidder.
2. ETF staff issue the Intent to Award to the successful bidder and notify all firms who submitted a bid.
3. A vendor who wants to appeal the award MUST send a written notice indicating that the vendor intends to appeal the decision. The vendor must send the notice to the Board, c/o the Secretary of ETF, within five business days after the Intent to Award notice is sent.
4. Upon receiving the written intent to appeal from the vendor, the ETF Secretary will forward the notice to all Board members.

Phase Two: Formal Appeal Received by the Board c/o ETF Secretary

5. Within 10 business days from the issuance of the Intent to Award, the vendor MUST submit the formal appeal in writing to the Board, c/o the Secretary of ETF.
6. The appeal must state the contract number, detailed factual grounds for the objection to the contract award, and any violations of Chapter 40, Wisconsin Statutes.
7. The Secretary will forward the formal appeal to the Board.
8. If the vendor withdraws the intention to appeal or does not follow up within ten business days with a formal appeal, the ETF Secretary will notify the Board that the matter is adjudicated and no Board action is required.
9. All communications and documentation will be maintained with the procurement file.
10. The ETF Secretary will direct ETF General Counsel and the ETF Director of Procurement to investigate the alleged violation of Chapter 40.

11. The Secretary will forward the results of the investigation to the Board and include a recommendation to the Board as well as legal and factual support for the recommendation.

Phase Three: Board Decision

12. The Board will review the appeal and ETF's recommendation.

13. The Board will render a decision. For most appeals, the options available to the Board are: rescind the original Intent to Award and direct staff to issue the award to a different bidder; rescind the original Intent to Award and direct staff to terminate the procurement; or deny the appeal and proceed with implementing the original decision.

14. Following Board action, a written decision will be sent to the vendor. The vendor is allowed one appeal per procurement contract or process.

15. For appeals of procurement awards made under Chapter 40, the Board's decision is final.