Office of Information Technology Services
State Capitol P.O. Box 2062
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www.its.ny.gov

New York State Information Technology Policy	**No:** ITS-P23-003
IT Policy: **Bid Protest**	**Updated:** 11/13/2025
	Issued By: NYS Office of Information Technology Services **Owner:** Chief General Counsel

1.0 Purpose and Benefits

ITS strives to ensure a fair, open, and competitive process to all vendors qualified to respond to any competitive procurement issued by the New York State Office of Information Technology Services (ITS). In furtherance of this goal, this policy establishes the process for any interested party involved in any contract or procurement award the ability to challenge the outcome or nature of a proposed contract or procurement award made by ITS and receive due and fair consideration where it presents a factual and/or legal basis for such challenge.

Bidders are encouraged to use the Question and Answer periods during procurements to raise concerns prior to bid evaluation and award. Bidders are also encouraged to take advantage of the debriefing process, which allows vendors to learn how their bid was evaluated and potential improvements for future bids.

2.0 Authority

Section 103(10) of the State Technology Law provides the Office of Information Technology Services (ITS) with the authority to establish statewide technology policies, including technology and security standards. *Section 2 of Executive Order No. 117* provides the State Chief Information Officer with the authority to oversee, direct and coordinate the establishment of information technology policies, protocols and standards for State government, including hardware, software, security and business re-engineering. Details regarding this authority can be found in NYS ITS Policy, *NYS-P08-002 Authority to Establish State Enterprise Information Technology (IT) Policy, Standards and Guidelines*.

3.0 Scope

This policy applies to all procurements conducted by ITS. Any interested party, defined as those who are a participant in the procurement process and those whose participation in the procurement process has been allegedly unduly restricted by the actions of ITS, will be given the opportunity to participate in the ITS bid protest process. In the event that a procurement to which this policy does not apply is the subject of a protest submitted to ITS, ITS will not review such protest and is not obligated to notify the protester of its decision thereto.

4.0 Information Statement

4.1 General Protest Guidelines

1. Any protest received by ITS must be in writing and must contain specific factual and/or legal allegations setting forth the basis on which the protesting party challenges the contract or procurement award by ITS. A formal protest must include: (i) a description of all remedies or relief requested; and (ii) copies of all applicable supporting documentation.

2. ITS may, at its sole discretion, waive any deadline or requirement set forth in this policy, or consider any materials, submitted in writing, beyond the time periods set forth in this policy.

3. Where ITS deems it appropriate, ITS may request the protesting party to address and/or submit further information with respect to any additional issues raised.

4. Nothing herein shall preclude ITS from obtaining information relevant to the procurement from any source, as it may deem appropriate.

4.2 Protest Procedure

1. Protests must be sent to the ITS Chief Financial Officer either by mail to the New York Office of Information Technology Services, Swan Street Building, Core 4 Floor 5, Albany, NY 12223 or by electronic mail at its.sm.bidprotest@its.ny.gov. Electronic mail is preferred. Protests must be sent within ten (10) business days from the date the interested party receives notice of contract or procurement award by ITS or within five (5) business days after a formal debriefing, except that:

    i. any protest concerning the terms and conditions of the solicitation or other matters that would be apparent to an interested party prior to the date set forth in the solicitation for the receipt of bids or proposals including but not limited to matters concerning errors, omissions or prejudice in the bid specifications or documents, must be filed on or before the date set in the solicitation for the receipt of bids or proposals; and

ii. where ITS determines that sufficient circumstances exist, ITS may set forth a different time period for filing protests.

2. The protesting party must simultaneously deliver a copy of the protest to, if known at the time, the successful bidder. Where the successful bidder is not known to the protesting party at the time it files a protest, ITS may forward a copy of the protest to the successful bidder at ITS's discretion.

3. The successful bidder may, but is not required to, file an answer to the protest addressing all factual and legal allegations contained in the protest and shall deliver such answer to the protester and ITS within seven (7) business days of receipt of the protest.

4. The protesting party may, but is not required to, file a reply to the successful bidder's answer to the protest. Such reply shall be filed with ITS no later than three (3) business days after receiving the successful bidder's answer to the protest.

5. Within ten (10) business days of the time period allotted for all filings made in accordance with this policy or as specified in the procurement, the ITS Chief Financial Officer, or designee, shall issue a final determination addressing all issues raised in the protest as well as any relevant issues raised by its review of the procurement. All participants in the protest and the successful bidder shall be provided a copy of the determination.

6. The determination by the ITS Chief Financial Officer shall be deemed the final agency determination unless the interested party files an appeal. Within ten (10) business days of receipt of the determination from the ITS Chief Financial Officer, the interested party may file an appeal to the Executive Deputy Chief Information Officer ("CIO") in writing. Such appeal should be sent to its.sm.bidprotest@its.ny.gov or Executive Deputy CIO, New York State Office of Information Technology Services, Swan Street Building, Core 4 Floor 5, Albany, NY 12223. Electronic mail is preferred. Within ten (10) business days of receipt of such appeal, the Executive Deputy CIO shall issue a final determination.

7. Any appeal to the Executive Deputy CIO cannot contain any new facts or information unless requested by the Executive Deputy CIO. The decision of the Executive Deputy CIO shall be deemed the final agency determination.

8. Nothing in this policy is intended to impair or limit the rights of interested parties to seek any remedies allowed by New York State law, rule, or regulation.

5.0 Compliance

This policy shall take effect upon publication. Compliance is required with all enterprise policies and standards. ITS may amend its policies and standards at any time; compliance with amended policies and standards is required.

6.0 Definitions of Key Terms

Except for terms defined in this policy, all terms shall have the meanings found in http://www.its.ny.gov/glossary.

7.0 Contact Information

Submit all inquiries and requests for future enhancements to the policy owner at:

Chief General Counsel
Reference: ITS-P23-003
NYS Office of Information Technology Services
State Capitol, ESP, PO Box 2062
Albany, NY 12220
Telephone: (518) 473-5115
Email: its.sm.dla@its.ny.gov

Statewide technology policies, standards, and guidelines may be found at the following website: https://its.ny.gov/policies

8.0 Revision History

This policy should be reviewed consistent with the requirements set forth in ITS-P24-003 Process for Establishing Information Technology Policies, Standards, and Guidelines.

Date	Description of Change	Reviewer
04/27/2001	Original Policy Release	Counsel's Office
09/14/2011	Revision	Counsel's Office/Procurement
09/18/2015	Revision	Counsel's Office
03/22/2017	Revision	Division of Legal Affairs
08/24/2020	Revision	Division of Legal Affairs
11/13/2025	Revision	Chief General Counsel