

4009 - FOOD SERVICE CONTRACT PROCUREMENT POLICY
OF ODYSSEY CHARTER SCHOOL, INC.

Adopted and Effective: May 9, 2017

WHEREAS continued participation in the National School Lunch Program (“NSLP”) mandates the adoption of a procurement policy for food service contracts; and

WHEREAS Odyssey Charter School, Inc. (“School”) intends to continue its participation in the NSLP; and

WHEREAS the Board of Directors is adopting this Food Service Contract Procurement Policy (“Policy”) to comply with NSLP requirements, and such Policy shall remain in effect during the time period that the School participates in the NSLP.

1. **Bids Received and Overview of Protests**

- A. Bids Received – School will solicit a bid(s) for any food services contract(s) at charter schools operated by the School. Bid specifications will be posted on the School’s website at least ten (10) days prior to the date the contract will be awarded. The decision to award a Contract will be based on the lowest and best bid that meets all requirements of the bid specifications. The School reserves the right to reject all bids and re-notice the bid specifications.
- B. Right to Protest – Any actual or prospective bidder or proposer, who is aggrieved in connection with a solicitation or award of a food service contract (“Contract”) for the School may protest to the Principal or Principal’s designee.
- C. Remedy – The Principal or Principal’s designee is authorized to settle any protest regarding the solicitation or award of the Contract, any claim arising out of the performance of the Contract prior to an appeal to the Governing Board of the School (the “Governing Board”), or the commencement of an action in court of competent jurisdiction.
- D. Stay of Procurement – In the event of a timely and properly filed protest, the Principal or Principal’s designee shall not proceed further with the solicitation or award until all administrative remedies have been exhausted, or until the Governing Board, as appropriate, makes a determination on the record that the award of the Contract is necessary to protect substantial interests of the School.

2. **Definitions**

- A. Interested Party – A party that is an actual or prospective bidder or offeror whose direct economic interest would be affected by the award or failure to award the Contract. **Note: A subcontractor does not qualify as an “interested party.”**
- B. Protest – A formal declaration of disapproval or objection issued by an Interested Party that arises during the procurement process. A protest is a potential bidder’s or contractor’s only remedy for correcting a perceived wrong in the procurement process.
- C. Protestor – A Interested Party that files a formal protest.

3. **Types of Protests.** There are three basic types of protests, pursuant to this policy:

- A. Pre-award – Protest is received prior to award of the Contract and challenges the specifications or criteria to award of the Contract.

- B. Post-award – Protest received after award of the Contract by the Governing Board of the School, which protests the Governing Board’s decision in awarding the Contract.

4. **Pre-Award Protest**

- A. A Protestor shall submit a Notice of Intent to File a Pre-Award Protest (“Notice of Intent to File”) by 4:00 p.m. no later than five (5) business days (excluding weekends and holidays) following the day the bid specifications are posted. The Notice of Intent to File shall include the name of the Protestor and shall state all grounds being claimed for the protest and clearly indicate, in the protest document, that there is an intent to file a formal written protest. No Notice of Protest will be accepted and deemed filed unless it complies with the requirements of this Policy.
- B. The Notice of Intent to File must be accompanied by a Protest Bond in the amount of ten percent (10%) of the total amount of the Contract, to a maximum of \$5,000 to be used for payment of administrative expenses associated with the Protest in the event the Protest is denied. Bids which do not ask for a bid/quote/proposal amount as part of the submittal are exempt from this bonding requirement. The Protest Bond must be in the form of a cashier’s check, certified check, or an attorney’s trust account check payable to the School. Cash is not acceptable.
- C. A Protest must be filed by 4:00 p.m. no later than five (5) business days (excluding weekends and holidays) following the date the Notice of Intent to File was filed. The Protest shall contain the following:
 - 1. Bid identification number, if applicable, and title;
 - 2. Name and address of the protestor and the title or position of the person submitting the Protest;
 - 3. A statement of all claimed disputed issued of material fact. If there are no disputed facts, the Protest must so indicate;
 - 4. A concise statement of the facts alleged and the constitutional provisions, statutes, rules, regulations, or policies which Protestor deems entitles itself to relief;
 - 5. All information, documents, other materials, calculations, and any statutory or case law authority in support of the grounds for the Protest;
 - 6. A statement indicating the relief sought by the Protestor; and
 - 7. Any other relevant information that they Protestor deems material to the Protest.No Protest shall be accepted unless it complies with the requirements of this Policy.
- D. No Protest may challenge the relative weight of the evaluation criteria or any formula for assigning points in a competitive solicitation.
- E. The Protestor shall mail or hand deliver Notices of Intent to File or Protests to the School Principal, care of Green Apple School Management (“School Manager”) at 1350 Wyoming Dr., SE, Palm Bay, FL 32909, and shall place the terms “NOTICE OF INTENT TO FILE BID PROTEST” or “BID PROTEST,” as applicable, on the face of the package. A Notice of Intent to File or Protest is considered filed when it is received by the School Manager.

- F. Failure to timely file a Pre-Award Notice of Intent to File a Bid Protest and a Pre-Award Bid Protest shall constitute an absolute and complete waiver of the right to protest the bid specifications for a particular Contract.
- G. Stay of Procurement: In the event of a timely protest prior to the Contract being awarded, the procurement process will be stayed pending resolution of the Protest.
- H. The School Manager and Principal shall have the authority to negotiate a settlement or resolution of the Protest and make such recommendation to the Governing Board if such settlement or resolution requires Governing Board action.
- I. If the Protest is not settled or otherwise resolved, the Protest will be considered by the Governing Board at a duly noticed meeting. The Governing Board will consider the written Protest as well as public comment of the Protestor. The final decision of the Governing Board shall be issued in writing and shall specifically state the reasons for the action taken and inform the Protestor of his or her right to challenge the decision if the Protest was denied.
- J. After the Governing Board makes its decision as to the Protest, the School shall continue with its process in awarding of the Contract.



5. **Post-Award Protest**

- A. A Post-Award Protest shall be initiated by filing a Notice of Intent to File a Bid Protest in the same manner and form as set forth in Sections 1A, 1B and 1E, above, no later than three (3) business days (excluding weekends and holidays) following the vote of the Governing Board to award the Contract. A Protest shall then be filed, in the same manner and form as set forth in Sections 1C and 1E, above, no later than three (3) business days (excluding weekends and holidays) following the date of filing of the Notice of Filing.
- B. Failure to timely file a Post-Award Notice of Intent to File a Bid Protest and a Post-Award Bid Protest shall constitute an absolute and complete waiver of the right to protest the award of the particular Contract.
- C. The School Manager and Principal shall have the authority to negotiate a settlement or resolution of the Protest and make such recommendation to the Governing Board if such settlement or resolution requires Governing Board action.
- D. The Post-Award Protest will be considered by the Governing Board at a duly noticed meeting. The Governing Board will consider the written Protest as well as public comment of the Protestor. The final decision of the Governing Board shall be issued in writing and shall specifically state the reasons for the action taken and inform the Protestor of his or her right to challenge the decision if the Protest was denied.

- E. A Protestor may appeal a decision by the Governing Board pursuant to this Policy by filing an original action in the Circuit Court of Eighteenth Judicial Circuit in and for Brevard County, Florida, in accordance with the applicable court rules. Any action not brought in good faith shall be subject to sanctions including damages suffered by the School and attorney's fees incurred in defense of such wrongful action.
6. **Effect of Signed Bid.** A signed bid is considered an offer by the bidder. The bid offer shall be deemed accepted only upon issuance and execution of a purchase order or other contractual document by the Governing Board.

Board President Certificate

I hereby certify that the foregoing Food Service Procurement Policy for Odyssey Charter School, Inc., was adopted by a majority vote of a quorum of the Governing Board of Directors at a duly noticed meeting held on May 9, 2017.


Board President

Printed Name