

TEXAS A&M UNIVERSITY-KINGSVILLE

Title: DISPUTE RESOLUTION PROCEDURE

Procurement Rule No.: P-031

Date: 9/16/05

I. Purpose

This Rule details the procedure for required for resolving Disputes between vendors and the University.

II. Scope

This Rule applies to all purchases made by the University.

III. General

The following rule shall be used for all Disputes arising during a procurement transaction.

DISPUTE RESOLUTION PROCESS:

(1) The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by Texas A&M University-Kingsville and the contractor to attempt to resolve any claim for breach of contract made by the contractor:

(A) A contractor's claim for breach of this contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, of the Government Code. To initiate the process, the contractor shall submit written notice, as required by subchapter B, to the Director of Procurement & General Services. Said notice shall specifically state that the provisions of Chapter 2260, subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of Texas A&M University-Kingsville and the contractor otherwise entitled to notice under the parties' contract. Compliance by the contractor with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, of the Government Code.

(B) The contested case process provided in Chapter 2260, subchapter C, of the Government Code is the contractor's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by Texas A&M University-Kingsville if the parties are unable to resolve their disputes under subparagraph (A) of this paragraph.

(C) Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by Texas A&M University-Kingsville nor any other conduct of any representative of Texas A&M University-Kingsville relating to the contract shall be considered a waiver of sovereign immunity to suit.

(2) The submission, processing and resolution of the contractor's claim is governed by the published rules adopted by the Office of the Attorney General, pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended. These rules are found at 1 TAC, Ch. 68.

(3) Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the contractor, in whole or in part.

(4) The designated individual responsible on behalf of Texas A&M University-Kingsville for examining any claim or counterclaim and conducting any negotiations related thereto as required under §2260.052 of H.B. 826 of the 76th Texas Legislature shall be the Director of Procurement & General Service, MSC 104, Room 121 College Hall, Kingsville, TX 78363.