

Hidalgo County Procedures for Vendor Protest

(1) FILING PROTEST: Formal protests must conform to the requirements and procedures set forth in this policy or the protest will be returned without action. Formal protests shall be resolved in accordance with the procedure set forth in this policy.

- A) Any actual or prospective bidder, offeror, or contractor who believes they have been aggrieved in connection with the solicitation, evaluation, or award of a contract may formally protest to the Purchasing Director of the Hidalgo County Purchasing Department (hereinafter referred to as “Purchasing Director” and “Purchasing Department” respectively).
- B) Such protests must be in writing and received in the Purchasing Department at the address below prior to award or within seven (7) business days after the date of award.

Hidalgo County Purchasing Department
Attn: Purchasing Director
2812 S. Business Highway 281
Edinburg, TX 78539
- C) Copies of the protest must be mailed or delivered by the protesting party to the Purchasing Department and to all respondents who have submitted bids, proposals or offers for the contract involved (hereinafter referred to as “respondent(s)”).
- D) Protester may obtain names and addresses of such respondents by sending a written request for the information to the Purchasing Department at the address above which will be processed in accordance with the Texas Public Information Act.
- E) In the event a protest is filed timely under this subsection, and an award has not been made, the Purchasing Department shall not proceed further with the solicitation or award of the contract pending review as described below. However, the solicitation/award process may continue if the Purchasing Director, after consultation with Hidalgo County personnel as needed, makes a written determination that awarding the contract without delay is necessary to protect substantial interests of Hidalgo County, Texas.

(2) CONTENT OF PROTEST: A formal protest must be sworn and contain:

- A) Protester’s name, address and telephone number;
- B) Solicitation number and title;
- C) A specific identification of the statutory or regulatory provision(s) that the action complained of is alleged to not be in compliance with;
- D) A specific description of each act alleged to not be in compliance with the statutory or regulatory provision(s) identified in subparagraph (C) of this paragraph;
- E) A precise statement of the relevant facts;
- F) An identification of the issue(s) to be resolved;
- G) Argument and authorities in support of the protest; and
- H) Proof that copies of the protest have been mailed or delivered to all respondents

who have submitted bids, proposals or offers for the contract involved.

- 1) An affidavit from Vendor certifying that copies of the protest were supplied to all respondents and including a list of respondent addresses where the protest was sent will be accepted as proof of delivery of copies.
- 2) If protester has not mailed or delivered the required information to a respondent at the time of filing a protest due to not possessing that respondent's contact information and the protester has requested this information from the County as provided above, then protester shall indicate the same in its certification.
- 3) After the County provides the requested contact information, the Protester shall file a supplemental affidavit with the County upon mailing or delivery of a copy of the protest to a respondent certifying the same and providing the address where the protest was sent.

(3) PURCHASING DIRECTOR'S REVIEW: The Purchasing Director shall review the protest.

- A) The Purchasing Director may solicit written responses to the protest from respondents and from other interested parties. Upon written request, the protesting party shall be given notice of the request and any written responses received.
- B) The Purchasing Director shall have the authority, prior to any appeal, to settle and resolve the dispute concerning the solicitation or award of a contract.
- C) If the protest is not resolved by mutual agreement, the Purchasing Director will issue a written determination on the protest.
 - 1) If the Purchasing Director determines that there is no lack of compliance with policies or statutes, he or she shall so inform the protesting party and each respondent by letter. The letter shall set forth any reasons for the determination.
 - 2) In instances in which the contract has not been awarded, if the Purchasing Director determines that a lack of compliance with rules or statutes has occurred, he or she shall so inform the protesting party and each respondent by letter. The letter shall set forth any reasons for the determination and the appropriate remedial action.
 - 3) In instances in which the contract has been awarded, if the Purchasing Director determines that a lack of compliance with rules or statutes has occurred, he or she shall so inform the protesting party and each respondent by letter. The letter shall set forth any reasons for the determination and may conclude that the contract awarded is void.

(4) APPEAL: The determination of the Purchasing Director on a protest may be appealed by the protesting party to the Hidalgo County Executive Officer, or the Executive Officer's designee (hereinafter referred to collectively as "Executive Officer").

- A) An appeal of the Purchasing Director's determination must be written, addressed to the attention of the Hidalgo County Executive Officer and must be received at the address referenced above no later than ten (10) business days after the date of the determination issued by the Purchasing Director.

- B) A copy of the appeal must be mailed or delivered by the appealing party to each respondent consistent with the process of mailing or delivery of the original protest, and the appealing party must provide an affidavit to the County certifying the same consistent with the process indicated with the original protest.
- C) The Purchasing Director shall provide the protest petition, any requests for and written responses to the protest petition from any respondent or other interested parties, the determination and the appeal to the Executive Officer.
- D) The appeal shall be limited to a review of the determination made by the Purchasing Director. The Executive Officer shall issue a written response to the protesting party.

(5) MISCELLANEOUS PROVISIONS: The following additional provisions are applicable to the protest procedure.

- A) A decision issued in writing by the Executive Officer on appeal, or in writing by the Purchasing Director that is not appealed in a timely manner, shall be the final administrative action taken by Hidalgo County.
- B) Untimely or late protests will not be considered, unless the Purchasing Director, or Executive Officer on appeal, concludes that the issue(s) raised by the protest indicates substantial prejudice to the integrity of the procurement system warranting review.
- C) If the Purchasing Director or Executive Officer determines he or she is conflicted from hearing the protest, then a designated Hidalgo County Administrator shall address the protest utilizing the same procedures as indicated above.
- D) The Purchasing Department shall maintain all documentation regarding the purchasing process that is the subject of a protest or appeal in accordance with the retention schedule of the Purchasing Department and/or applicable law, whichever is longer.
- E) Hidalgo County personnel and/or officials, including but not limited to the Purchasing Director and Executive Officer, may confer and consult with legal counsel concerning a protest at any time subject to any attorney-client privilege and any protections afforded by law.
- F) Vendor must follow and comply with the requirements and procedures referenced above or the protest shall be returned to Vendor without action. The matter will be considered closed.