



Harris County

Protest Policy & Procedures

GENERAL STATEMENT

This document sets forth Harris County's Debriefing, Protest, and Appeals policies and procedures which are aimed to ensure a fair, open, and transparent procurement process. Harris County shall be responsible for evaluating and resolving disputes, protests, and appeals in response to Harris County's procurement actions.

DEBRIEFING

A Debriefing is a formal meeting between Harris County and an offeror for a particular procurement to explain the rationale for the contract award decision, and normally occurs after the County has awarded a contract through an advertised competitive proposals solicitation such as a Request for Proposals (RFP), Request for Qualifications (RFQ) or Competitive Sealed Proposals (CSP). A Debriefing is a procedural matter that does not affect the validity of the award.

DEBRIEFING POLICY

When a contract is awarded on the basis of other than price alone, unsuccessful offerors, upon their written request, shall be Debriefed as soon as possible. Debriefings are not required when the County utilizes a sealed bidding procurement method such as an Invitation for Bids (IFB). Harris County shall provide a Debriefing to unsuccessful offerors upon properly submitted and timely written request. Debriefings shall be conducted in a fair and impartial manner, and information given to the offerors shall be factual and consistent with the evaluation.

DEBRIEFING PROCEDURES

Timing of Debriefing

Harris County must receive an unsuccessful offeror's written request for a Debriefing within three (3) days after the date on which the Purchasing Office sends notification(s) to unsuccessful offeror(s) or posts the recommendation for award notice to the Purchasing Office website to be considered timely.

To the maximum extent practicable, the County shall conduct the Debriefing within fifteen (15) days after receipt of the written request for Debriefing. Upon receiving a timely request for a Debriefing, the County should inform the offeror of the offered (scheduled) Debriefing date in writing by electronic means with immediate acknowledgment requested. If the offeror is unable to attend the offered Debriefing date and requests a later time, the offeror must acknowledge the offered Debriefing date, and formally (in writing) request a later date instead.

Content of Debriefings

The Debriefing information shall generally include Harris County's evaluation of the significant weaknesses or deficiencies in the offeror's proposal and a summary of the rationale for award. The Purchasing Office shall not engage in discussions about how the offeror's response compared to



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other responses and shall not divulge confidential information regarding a competitor's response, including pricing of competitors. The Debriefing shall not reveal any information that is not releasable under the Freedom of Information Act (FOIA); for example:

- Trade secrets
- Privileged or confidential manufacturing processes and techniques; and
- Commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information.

PROTESTS

“Protest” means a written objection by an Interested Party to any of the following:

- A solicitation by Harris County for offers for a contract for the procurement of property or services.
- The cancellation of a solicitation or other request.
- An award or proposed award of a contract.
- A termination or cancellation of an award of the contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.

“Interested Party” is an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract

PROTEST POLICY

Harris County's Purchasing Office shall fully consider and promptly judge Protests relating to the County's solicitation procedures, solicitation documents, or recommendations for award of a contract. Bidders or offerors shall be advised of these procedures in the solicitation documents. These procedures shall apply to all procurement and contract actions, including sole source awards and those resulting from formal competitive bidding and competitive proposals procedures.

PROTEST PROCEDURES

Failure of a Protestor to follow the Protest Procedures may render the Protest untimely and/or inadequate and may result in rejection of the Protest.

Timing of Protest

To be considered timely, Protests concerning the content of a solicitation, including all attached documents, must be filed with the Purchasing Office within ten (10) calendar days after the Purchasing Office first advertises the solicitation and received not later than 5:00 p.m. CST on the tenth day. If the tenth calendar day falls on a weekend or legal holiday, the protest period ends at 5:00 p.m. CST the following business day. The Purchasing Office will acknowledge only one



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Protest on solicitation content. The Purchasing Office shall issue a written decision on the Protest prior to opening of bids or submission of proposals.

Protests concerning a recommendation for award, on any ground not based upon the content of a solicitation, must be filed with the Purchasing Office by an Interested Party within ten (10) calendar days after the Purchasing Office sends notification(s) to unsuccessful bidder(s) or offeror(s) or posts the recommendation for award notice to the Purchasing Office website. If the tenth calendar day falls on a weekend or legal holiday, the Protest period ends at 5:00 p.m. CST the following business day. Any additional protests must be filed within the designated time.

The date of filing must be the date of receipt by the Purchasing Office.

The procedures and time limits in this section are mandatory and are the sole and exclusive remedy of each Protestor if there is a Protest. A Protestor's failure to timely complete the Protest procedures is deemed a failure to exhaust administrative remedies. Failure to exhaust administrative remedies, or failure to comply with these procedures, constitutes a waiver of any right to further pursue the Protest, including legal proceedings.

Content of Protest

In order for a Protest to be considered properly, the Protestor shall provide a written submission to the Purchasing Office, which shall contain at a minimum:

- Name and address of the Protestor;
- Its relationship to the procurement sufficient to establish that the Protest is being filed by an Interested Party;
- Written proof that Protest has been filed in a timely manner;
- The specific solicitation, job, or contract number;
- The specific staff recommendation, County action, or inaction that is being protested;
- The identification of the specific statutory or regulatory provisions and/or laws that the action complained of is alleged to have violated, and upon which the Protest is based;
- A specific description of each act alleged to have violated the statutory or regulatory provision(s) identified;
- A precise statement of the relevant facts;
- All documentation supporting the allegations in the Protest;
- A statement of the specific relief requested (identification of the issue or issues to be resolved).



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If the Protest does not comply with any of the preceding requirements, it may not be considered for evaluation and may be returned to the Protestor who submitted the written documentation without the appropriate substantiating information. At the Protestor's discretion, a Protest may be filed by e-mail to the assigned Buyer (with original copy by mail) or by certified or registered mail, overnight courier, or hand delivered. The County is not responsible for lost or otherwise delayed deliveries. A Protest not filed within the time limits herein may be rejected without consideration or evaluation.

All mailed Protests must be filed in writing to:

Harris County Purchasing Agent

Attn: Purchasing Agent

1111 Fannin Street, 12th Floor

Houston, Texas 77002

No other location or addressee shall be acceptable.

Protest Determinations

At its discretion, the Purchasing Office may investigate the Protest, obtain additional information, and provide an opportunity to resolve the Protest by mutual agreement, or schedule one (1) or more meetings with the Protestor. The Purchasing Office shall respond to each issue raised in all timely and properly filed Protests. The Purchasing Office shall make a written determination of the Protest within thirty (30) business days from receipt of Protest. The Purchasing Office, in its review of the Protest, may determine that:

- No violation has occurred; or
- A violation has occurred, and it is necessary to take remedial action.

The Purchasing Office may elect to withhold from proceeding with a solicitation or with the award of a contract unless a determination is made that proceeding with a solicitation or award of a contract without delay is necessary to protect substantial interests of the County. Any decision rendered by the Purchasing Office may be appealed to the Harris County Commissioners Court.

If the Purchasing Office determines that a violation of the rules or statutes has occurred in a case where a contract has been awarded, the Purchasing Office shall inform the Protestor and other Interested Parties of that determination in writing by e-mail or by U.S. postal service mail to the address stated in the Protest. The Purchasing Office shall set forth the reasons for the determination and may set forth any appropriate remedial action, which may include canceling or voiding the contract to the extent allowed by law.



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APPEALS

An Appeal is a Protestor's written request for reconsideration of a Harris County Protest Determination.

APPEALS POLICY

If a Protestor disagrees with the Protest Determination made by the Purchasing Office, the Protestor has the right to Appeal. Any Protest Determination rendered by the Purchasing Office may be appealed to the Harris County Commissioners Court. It is the policy of Harris County to consider fully and judge promptly Appeals relating to the County's solicitation procedures, solicitation documents, or recommendations for award of a contract. These procedures shall apply to all procurement and contract actions, including sole source awards and those resulting from formal sealed bidding and competitive proposals procedures.

APPEALS PROCEDURES

Failure of a Protestor to follow the Appeals Procedures may render the Appeal untimely and/or inadequate and may result in rejection of the Appeal.

Timing of Appeals

An Appeal to the Commissioners Court concerning a Protest Determination must be filed by an Interested Party within five (5) business days following the date of issuance of the Protest Determination — not the date the Protestor receives the Protest Determination. Failure of the Protestor to appeal the Determination of the Purchasing Office within five (5) business days after the date of the Protest Determination renders the Protest Determination the final administrative action of the County on the Protest.

The Appeal must be submitted in writing. If sent by e-mail the Appeal must be submitted to the Purchasing Agent at dewight.dopslauf@pur.hctx.net. If submitted by certified or registered mail, overnight courier, or hand delivered, Appeals must be submitted to:

Harris County Office of the Purchasing Agent

Attn: Purchasing Agent

1111 Fannin Street, 12th Floor

Houston, Texas 77002

No other location or addressee shall be acceptable.

If the Purchasing Office receives an appeal after 5:00 p.m. CST, it shall consider the Appeal as received on the next business day. If the Purchasing Office receives an Appeal after the Appeal period ends, the Purchasing Office shall send a written response signed by the Purchasing Agent to the Protestor stating that the Appeal is denied because it was not received within the time limits. The Purchasing Office shall send this response as soon as reasonably practical.



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The procedures and time limits in this section are mandatory and are the sole and exclusive remedy of each Protestor if there is an Appeal. A Protestor's failure to timely complete the Appeal procedures is deemed a failure to exhaust administrative remedies. Failure to exhaust administrative remedies, or failure to comply with these procedures, constitutes a waiver of any right to further pursue the Protest, including legal proceedings.

Content of Appeals

The Protestor bears the burden of proof to show that the Purchasing Office's written Protest Determination is incorrect. The Appeal must be based on one or both of the following:

1. The Protestor alleges that there are new facts and/or information related to the Protest that were not available at the time the Protest was submitted.
2. The Protestor alleges that the decision of the Purchasing Office was in error of law or regulation.

Appeals filed for any other reason will not be considered. A Protestor is prohibited from stating new reasons for a Protest in its Appeal.

Commissioners Court Appearances

The Purchasing Agent shall submit timely and properly submitted Appeals to the Commissioners Court with a request that the Appeal be placed as an Agenda Item. If the Protestor wishes to appear at Commissioners Court, the Protestor must complete an Appearance Request Form at <https://appearancerequest.harriscountytexas.gov/>. Protestors may wish to appear in order to speak at Court and answer questions that may arise by Court members. However, an appearance at Commissioners Court is not required. Commissioners Court meetings are held at 1001 Preston, Suite 500, Houston, TX 77002.

The Clerk of the Court or another person designated by the presiding member of the Court shall keep the time for speakers. Those persons who do not conduct themselves in an orderly and appropriate manner will be ordered to leave the meeting and recognition to speak may be refused at subsequent meetings of the Court. Refusal to abide by the Court's order may result in a Contempt of Court Citation.

Appeal Determinations

Once on the Item is on the Agenda, the Commissioners Court shall consider and take appropriate action on the Appeal. Action shall be within a reasonable time usually no later than the third Commissioners Court session held after the Purchasing Office receives the Appeal.

The Purchasing Office shall notify the Protestor of the date, time, and place that the Commissioners Court is to consider the Appeal. At that time, the Commissioners Court shall allow the Protestor an opportunity to present evidence in support of the Appeal. The Purchasing Agent may also make a presentation. In evaluating an Appeal, the Commissioners Court shall only review the written



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Appeal and documents submitted by the Protestor and the materials and conclusions reached by the Purchasing Office. The Commissioners Court shall then determine whether to uphold or overturn the Purchasing Office's decision on the Protest. The Commissioners Court may overturn the results of a solicitation process or for ethical violations by Purchasing Office staff, the County evaluation committee members, the subject matter experts or any other County staff managing or participating in the solicitation process, regardless of the timing or the content of the Protest. If it has been determined that a violation has occurred, and it is necessary to overturn the Purchasing Office's decision on a Protest, remedial action taken by the Commissioners Court may include:

- Declaring the contract void;
- Reversing the award; and/or
- Re-advertising the purchase using revised specifications.

The Purchasing Agent shall send the Commissioners Court written decision on the Appeal by e-mail or by U.S. postal service mail to the address stated in the Appeal.

The Commissioners Court determination of the Appeal will be the final administrative action of Harris County and shall exhaust all administrative remedies available to the Protestor. No further Appeal shall be permitted.