

PROTEST PROCEDURES

Protest of bidding procedures, specifications or bid/contract awards shall be made in accordance with the following procedures. Such protests may only be initiated by an authorized representative of a person, firm or corporation who has a direct economic interest in the particular procurement in question.

A. *Protest filing.* Any protest must be filed with the purchasing agent at the address specified in the bid specifications or quotation request for the receipt of bids or quotes. The protest must be in writing and describe in full detail the basis for the protest and the particular bid or quote in controversy. In order to meet the time frames enumerated hereinafter, a protest may be received in person, by U.S. mail, facsimile or electronic means; provided, however, that facsimile or electronic filing shall be followed with documents bearing original signatures as soon as practical thereafter.

B. *Bid specifications (pre-award).* Protest of bid specifications or bidding procedures must be received by the Purchasing Office no later than five (5) business days prior to the scheduled bid opening or quotation closure period. Protests received the day of bid opening or quotation closure will not be considered.

C. *Awards less than \$20,000.* Protest of procurement decisions valued at less than \$20,000 shall be filed by the protestant within five (5) business days of the purchasing agent's award decision. The purchasing agent, in consultation with the city attorney and city manager, shall have authority, prior to the commencement of an action in a court concerning the controversy, to settle and resolve the protest. If the protest is not resolved by mutual agreement, the purchasing agent shall issue a decision in writing to the protestant within ten (10) business days after receipt of the protest stating the reasons for the action taken.

D. *Awards \$20,000 or greater.* Protest of award recommendations valued at \$20,000 or greater shall be filed by the protestant within five (5) business days of the purchasing agent's recommendation for award and prior to the scheduled consideration by the board of directors. The board of directors shall hear all parties concerned and shall render a decision regarding the protest and the bid/contract award.

E. *Stay of procurement award.* In the event of a timely protest pursuant to this section, the city shall not proceed with the solicitation or procurement until protest is resolved by mutual agreement, the purchasing agent issues a final decision (under \$20,000), the board of directors approves the procurement in controversy (\$20,000 or greater) or court decision is rendered if the controversy is filed in court. Provided, however, that the city may proceed with a procurement in controversy if a written determination is made by the purchasing agent, in consultation with the city attorney, that the items to be purchased are urgently required, the delivery or performance will be unduly delayed by failure to make the award promptly, or failure to make award will otherwise cause undue harm to the city.

F. *Award notification.* Notification of procurement decisions shall be available in the purchasing division as soon as such decisions are final. Bid or contract award recommendations to be considered by the board of directors shall, whenever possible,

also be available in the office of the city clerk seven (7) calendar days prior to the board of directors meeting at which the bid or contract award is scheduled for consideration. It is the responsibility of all bidders to make inquiry of the purchasing division regarding procurement decisions for the purpose of rendering protests.

G. *Federal grants.* Protest of any procurement funded in whole or in part with federal grant funds may also be filed concurrently with the funding agency. The purchasing manual shall include necessary instructions for filing of such protests with the appropriate agency.