

TEXAS A&M UNIVERSITY-KINGSVILLE

Title: PROTEST PROCEDURE

Procurement Rule No.: P-030

Date: 9/16/2004

I. Purpose

This Rule details the procedure for filing protests related to the procurement of goods and/or services by the University.

II. Scope

This Rule applies to all purchases made by the University.

III. General

Any actual or prospective bidder, offeror, proposer, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of a contract may formally protest to the Director of Procurement and General Services. Such protests must be in writing and received in the Director's office within 3 working days after such aggrieved person knows or should have known of the occurrence of the action which is protested or the award date whichever is earlier. Formal protests must conform to the requirements of this Rule and shall be resolved in accordance with the procedures set forth in this Rule. Copies of the protest must be mailed or delivered by the protesting party to the University and other interested parties. For the purpose of this Rule, "other interested parties" means all vendors who have submitted bids or proposals for the contract involved.

In the event of a timely protest or appeal under this Rule, the University shall not proceed further with the solicitation or with the award of the contract unless the Director makes a written determination that the award of contract without delay is necessary to protect substantial interests of the University.

The formal protest must contain:

- (1) A specific identification of the statute, regulation, or rule that the action complained of is alleged to have violated,
- (2) A specific description of each act alleged to have violated the statute, regulation, or rule described in (1) above,
- (3) A precise statement of the relevant facts,
- (4) An identification of the issue(s) to be resolved
- (5) Argument and authorities in support of the protest, and
- (6) A statement that copies of the protest have been mailed or delivered to other identifiable interested parties.

The Director shall have the authority, prior to appeal to the Assistant Vice President for Finance and Administration, to settle and resolve the dispute concerning the solicitation or award of a contract. The Director may solicit written responses to the protest from other interested parties.

If the protest is not resolved by mutual agreement, the Director will issue a written determination on the protest.

- (1) If the Director determines that no violation of statute, regulation, or rule has occurred, he shall so inform the protesting party and other interested parties by letter that sets forth the reasons for the determination.
- (2) If the Director determines that a violation of statute, regulation, or rule has occurred in a case where a contract has not been awarded, he shall so inform the protesting party and other interested parties by letter which sets forth the reasons for the determination and the appropriate remedial action.
- (3) If the Director determines that a violation of the statute, regulation, or rule has occurred in a case where a contract has been awarded, he shall so inform the protesting party and other interested parties by letter which sets forth the determination which may include ordering the contract void.

The Director's determination on a protest may be appealed by an interested party to the Vice President for Finance and Administration. An appeal of the Director's determination must be in writing and must be received in the Vice President for Finance and Administration office no later than 6 working days after the date of the Director's determination. The appeal shall be limited to review of the Director's determination. Copies of the appeal must be mailed or delivered by the appealing party to other interested parties and must contain an affidavit that such copies have been provided. The aggrieved party may request a meeting with the Vice President for Finance and Administration.

The Vice President for Finance and Administration will issue a written determination on the appeal. He shall so inform the protesting party and other interested parties by letter, which sets forth the reasons for the determination.

The determination by the Vice President for Finance and Administration shall be final.