

TEXAS STATE UNIVERSITY-SAN MARCOS
BID PROTEST/APPEAL GUIDELINES:

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Formal Protest:

An actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may attempt to formally file a protest to the University's Director of Purchasing. Such protests must be in writing and submitted to the Director of Purchasing no later than seven (7) calendar days after the aggrieved person knows, or should have known of the occurrence of the action, which is being protested /appealed.

Formal protests should conform to the requirements as set forth below:

1. In the event of the timely submittal of a formal written protest, the University's Director of Purchasing shall not proceed with solicitation or contract award, unless the University's Associate Vice President for Financial Services (AVPFS), after consultation with the involved department(s) and the Director of Purchasing, makes a determination that award of a contract without delay is necessary to protect substantial interests of the University.
2. The formal written protest is to contain the following documentation:
 - Specific identification of the statutory or regulatory provision that the action complained is alleged to have violated.
 - A precise statement of the relevant facts relating to the protest.
 - Identification of the issue, or issue, to be resolved.
 - Argument and authorities in support of the protest.
 - An affidavit that the contents of the protest are true and accurate.
3. Upon receipt of the formal protest the University's Director of Purchasing shall review the protest documentation to determine its validity. If the protest is not resolved by mutual agreement of the interested parties, the Director of Purchasing shall issue a written determination on the protest:
 - If the Director of Purchasing determines that no violation of rules or statutes has occurred, the protesting party shall be informed in writing setting forth the reasons for the determination.
 - If the Director of Purchasing determines that a violation of the rules or statutes has occurred in a case where a contract has not been awarded, the protesting party and any interested party shall be informed by a letter which shall set forth the reasons for the determination and the appropriate remedial action to be taken.
 - If the Director of Purchasing determines that a violation of the rules or statutes has occurred in a case where a contract has been awarded, the protesting party and other interested parties shall be informed by a letter setting forth the reasons for the determination and the appropriate remedial action, which may include ordering the contract void.
4. The Director of Purchasing's determination may be appealed by any of the interested parties. An appeal of the determination must be in writing and should be addressed to the University's Associate Vice President for Financial Services. The appeal by an interested party must be received in the AVPFS' office no later

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- than five (5) calendar days after that party's receipt of the Director of Purchasing's determination of the original protest.
- 5.) The Director of Purchasing will furnish the University Attorney with copies of the original protest documents, Director of Purchasing's determination, and the interested party's appeal. The University Attorney shall prepare a written opinion on the merits of the appeal with recommendations to the AVPFS. The AVPFS, at his/her discretion, may refer the matter to the Vice President for Finance and Support Services, or issue a written decision to all interested parties setting forth the reasons for the decision.
 - 6.) If referred, the Vice President for Finance and Support Services, at his/her discretion, may refer the matter to the Vice Presidents' Council, or issue to all interested parties a written decision setting forth the reasons for the decision.

Informal Appeal:

The submission of an informal appeal regarding the procurement process should generally follow the formal protest procedure, however, there does not need to be identified a violation of a statutory regulation. If, after filing an informal appeal, the aggrieved party wishes to file a formal protest, the submission deadline for the filing of a formal protest must be in compliance with the formal protest procedure, unless the Director of Purchasing grants a specific extension for the formal protest filing.