

# PROTESTS AND APPEALS FOR GOODS AND PROFESSIONAL SERVICES PROCUREMENTS



## I. APPLICABILITY

These protest procedures do not apply to public works (construction) projects nor do they apply to any contract for goods or services unless the procuring department has elected to use this procedure for the contract at issue. Bidders are referred to the RFP/RFQ document for details on the protest procedure that applies, if any.

## II. FILING OF PROTEST

Any directly affected party who is aggrieved in connection with the solicitation or award of a contract may file a protest regarding the procurement action.

Such protest must be filed in writing with:

County of Sonoma  
Purchasing Agent  
2300 County Center Drive, Suite A-208  
Santa Rosa, CA 95403

Protests must be filed within five (5) calendar days from the date notice of intent to award is issued by the procuring department. Failure to timely file a protest shall constitute a waiver of any right to protest. Untimely protests will not be accepted or considered. Any protest shall:

- (1) State in detail each and every ground asserted for the protest, citing to the law, rule, local ordinance, procedure or bid provision on which the protest is based; and
- (2) Identify the remedy sought.

NOTE: Specification related protests must be fully supported by technical data, test results, or other pertinent information that a rejected product offered is equal to or better than the specification requirement.

### **III. PROTEST RESOLUTION PROCESS**

#### **(1) Informal resolution**

Upon receiving a protest, the Purchasing Agent will convene, at the earliest convenience, discussions between the protesting party and appropriate County staff to seek informal resolution and/or to clarify the issues.

#### **(2) Written response/rebuttal**

Within ten (10) calendar days following the informal meeting, the Purchasing Agent shall provide a written response to the protesting party. Upon receipt of the written response, the protester will have five (5) calendar days within which to provide in writing new information or arguments in rebuttal to the response. In the absence of any rebuttal, it is assumed that the issue is resolved.

#### **(3) Appeal**

Following receipt of rebuttal documentation, the issue shall be referred to the County Director of General Services for a written decision. The decision will be issued within thirty (30) days of receipt of the protesting party's rebuttal, unless otherwise mutually agreed by both parties. The decision of the County Director of General Services shall be deemed final as of the date it is transmitted to the protester.

### **IV. NO STAY OF PROCUREMENT ACTION DURING A PROTEST**

Nothing in these Policies and Procedures shall be deemed to prevent the County of Sonoma from proceeding with negotiations or awarding a purchase order or contract while a protest is pending.

### **V. REMEDIES PRIOR TO AN AWARD**

If prior to award by the Board of Supervisors or, if applicable, the Department Head, it is determined by the Purchasing Agent that a solicitation or proposed award of a contract is in violation of these Policies and Procedures, then, at the sole discretion of the Purchasing Agent, the solicitation or proposed award shall be either:

(1) Canceled; or

(2) Revised to comply with these Policies and Procedures.

**VI. REMEDIES AFTER AN AWARD (IF PROCUREMENT WAS NOT STAYED NOTWITHSTANDING A TIMELY PROTEST)**

If, after an award by the Board of Supervisors or, if applicable, the Department Head, it is determined by the Director of General Services that a contract or purchase order was awarded notwithstanding a defect in the procurement process, then the following criteria will be employed to resolve the dispute:

- (1) If the person or entity awarded the contract or purchase order has not acted fraudulently, or in bad faith:
  - (a) The contract or purchase order may be ratified and affirmed, provided the discovered defect is immaterial, as determined solely by the County with reference to County policies, procedures, and applicable law, and it is determined that doing so is in the best interest of the County; or
  - (b) The contract/purchase order may be terminated.
- (2) If the person or entity awarded the contract or purchase order has acted fraudulently or in bad faith, the contract or purchase order shall be declared null and void.