

1.0 PROTESTS AND APPEALS PROCEDURE

Protests of the specifications of any bid must be brought to the attention of the Buyer prior to the date of the bid opening. The Buyer will consider the item and the bid opening will proceed as scheduled or be rescheduled, as needed. After the bid opening, any actual or prospective bidder, off error or contractor (bidder) who is aggrieved in connection with the specifications may appeal the decision of the Buyer to the Purchasing Manager. Only those specifications brought to the attention of the Buyer prior to the bid opening may be appealed. The Purchasing Manager will render a decision within five (5) working days.

Once the Purchasing Manager has rendered a decision, a Notice of Intent to Award will be published on the Purchasing Web site. Any bidder may protest the award if they feel that there was a procedural or factual problem. This protest must be in writing and be received by the Purchasing Division within five (5) working days of the publication of the Notice of Intent to Award. The Purchasing Manager will consult with the Director and/or Assistant Director of General Services and render a decision within ten (10) working days of the receipt of the protest. The Purchasing Manager may schedule a meeting with the aggrieved party in order to clarify the matter. If such a meeting is held, the Purchasing Manager will render a decision within ten (10) working days following the meeting.

If the aggrieved party is not satisfied with the decision of the Purchasing Manager, a written appeal shall be made within five (5) days to the County Executive Officer.

1.1 The County Executive Officer

The County Executive Officer shall issue a written decision within ten (10) working days after receipt of the protest. The County Executive Officer may schedule an interview with the aggrieved party. In such case, the County Executive Officer shall issue a written decision within ten (10) working days after the interview. The written decision shall:

- (a) State the reason for the action taken;
- (b) Inform the protestant that a request for further administrative appeal of an adverse decision must be submitted in writing to the Clerk of the Board of Supervisors within seven (7) working days after mailing of the decision by the County Executive Officer.

The County Executive Officer shall discuss with County Counsel all protests and appeals before issuing a written decision.

1.2 Board of Supervisors

If requested as set forth in Section 1.2(b) above, the Clerk of the Board of Supervisors shall schedule the appeal for hearing by the Board of Supervisors within 20 working days from the date of receipt of the appeal. The Appeal will be heard at a regularly scheduled meeting of the Board of Supervisors.

- (a) Once the Clerk of the Board has scheduled the appeal hearing, the Clerk of the Board shall give written notification thereof to the appellant by personal or mail service not less than ten (10) working days prior to the date of the hearing.
- (b) At the hearing, the appellant shall have the right to testify, to be represented by counsel, to present witnesses on his own behalf, and to present oral and written documents and evidence on the issues.

- (c) At the conclusion of the hearing, the Board of Supervisors shall make a motion of intent and direct County Counsel to make written findings concerning the issue(s) raised by the appellant.
- (d) Review of the proceeding before the Board of Supervisors may be sought in accordance with Code of Civil Procedure Section 1094.5.

1.3 Stay of Purchasing Action During Protest

In the event of a timely appeal before the Board of Supervisors under this Section, the County shall not proceed further with the solicitation or with the award of the contract until the appeal is resolved unless the General Services Director, in consultation with the head of the using department and County Counsel, makes a written determination that the award of the contract without delay is necessary to protect a substantial interest of the County.

1.4 Remedies Prior to an Award

If, prior to the award, it is determined a solicitation or proposed award of a contract is in violation of law or of County policies, then the solicitation or proposed award shall be:

- (a) Canceled; or
- (b) Revised to comply with the law or policy.

1.5 Remedies after an Award

If, after an award, it is determined a solicitation or award of a contract is in violation of law, then the contract may be terminated subject to County Counsel's determination.