

**FAYETTE COUNTY
POLICIES AND PROCEDURES**

**PROCEDURES GOVERNING VENDOR PROTESTS
250.03**

PURPOSE

In the event that a bidder, offeror, or contractor wishes to protest a solicitation, offer, or award of a contract, a protest can be affected by following the procedures below. The purpose of these procedures is to provide a mechanism to resolve conflicts of this nature in a way that is equitable, to the extent possible, to all concerned parties.

POLICY

It is the policy of the county to procure goods and services in a way that promotes the financial and other interests of citizens, while maintaining equity and fairness in its dealings with the business community. In the event that a protest should arise, the county's response must reflect a resolution that abides by all federal and state laws and county ordinances; provides equity to involved bidders, offerors, or contractors to the extent possible; and provides the goods or services needed to conduct county business.

PROCEDURES

An actual or prospective bidder, offeror, or contractor may protest a solicitation, offer, or contract award made by the county's Purchasing Department.

The protestor must present such protest in writing to the Director of Purchasing. A written protest may be presented in person, through traditional mail, or electronically. It must include the following information:

- Name and address of the protestor
- Identification of the procurement action being protested
- A statement of the reason for the protest.

Protests will be considered for the following three types of procurement actions:

1. **Protest regarding solicitation:** A written protest regarding solicitation must be received by the Purchasing Department no later than three (3) calendar days prior to the deadline to submit offers. Protests of this type may include claims of exclusionary or discriminatory specifications in the solicitation; challenges to the basis for award; claims that the procurement process violates a federal law, state law, or county ordinance or policy; or similar claims.

Upon receipt of a timely solicitation protest, the Purchasing Department may postpone the deadline for submission of offers until resolution of the protest, if the needs of the county permit.

2. **Protest regarding offer evaluation:** A written protest concerning the evaluation of a bid or offer must be received by the Purchasing Department no later than five (5) calendar days after the county's award decision is made. This type of protest may challenge the county's determination of responsiveness of offers or errors in evaluation calculations, or may claim that the county violated a federal, law, state law, or county ordinance or policy in awarding the contract.

Upon receipt of a timely protest regarding the evaluation of offers, the county may suspend its evaluation of offers until resolution of the protest, if the needs of the county permit.

3. **Protest regarding award of contract:** A written protest regarding a contract award must be received by the Purchasing Department no later than five (5) calendar days after award of the contract. After that time, the protest will not be deemed a valid protest, but may still be considered if deemed appropriate by the county. This type of protest will be considered only if the protestor demonstrates that the county violated a federal law, state law, or county ordinance or policy.

Upon receipt of a timely protest of contract award, the county may suspend the contract until resolution of the protest, if the needs of the county permit.

The Director of Purchasing will notify any protestor of receipt of a timely protest and may, where appropriate, request additional information. The county may, at its sole discretion, meet with the protestor to review the issues raised in the protest.

After review of a protest, the Director of Purchasing will issue a written decision on the basis of the information provided by the protestor, the result of any meetings with the protestor, and the county's investigation of the facts. The decision shall be final. The written decision will include the reasons for the decision made, and any actions taken. A copy of the decision shall be provided to the protestor and any other intervening party.

Decisions will be made, and the protestor and other intervening parties will be notified of the decisions, within 14 calendar days of receipt of a written protest. If a final decision has not been made within that time frame, the protest will be considered denied by default.

If the protest is upheld, the county will take appropriate action to correct the procurement including, but not limited to, re-issuance of the solicitation, revised evaluation of the offers or the county's conclusion of the evaluations, or termination of the contract. If the protest is denied, the county will remove suspension and proceed with the procurement.

In the event that a contract is terminated, the county will compensate the vendor or contractor for any authorized performance under the contract up to the date of termination. The vendor or contractor will not be entitled to damages or payment for work not done on the contract at the time of termination. The county will not compensate a vendor or contractor for any profits that would have been realized if the purchase order or contract had not been terminated.