

Manatee County Code of Ordinances

Section 2-26-61. Protests.

(a) Right to Protest. Any actual bidder, proposer, or contractor who is aggrieved in connection with the notice of intent to award a contract (Protestor), where such grievance is asserted to be the result of a violation of the requirements of this purchasing code or any applicable provision of law by the officers, agents, or employees of the County, may file a protest to the Procurement Official.

(b) Protest Procedure and Requirements.

(1) The protest shall be made in writing and filed with the Procurement Division by 5:00 p.m. on the fifth business day following the date of the posting of the Notice of Intent to Award on the County website. A protest is considered filed upon receipt by the Procurement Division. Failure to file a written protest within the time period specified shall constitute a waiver of the right to protest.

(2) The written protest shall identify the protesting party and the solicitation involved, including a statement of the grounds on which the protest is based and the applicable statutes, laws, ordinances or other legal authorities which the Protestor deems applicable to the grounds for the protest.

(3) The Protestor shall not include challenges to the solicitation requirements, chosen procurement method, the evaluation criteria, the relative weight of the evaluation criteria, or the formula specified for assigning points to the evaluation criteria in its Protest.

(4) The procurement process shall not be stayed during the protest process unless the Procurement Official, in his or her discretion, deems it to be in the best interests of the County to stay the proceeding.

(c) Authority to Resolve Protests. The Procurement Official shall have the authority to settle and resolve a protest concerning the intended award of a contract. The Procurement Official shall promptly investigate the protest and issue a written decision within thirty (30) days of the date the protest is received.

(d) Review of a Protest Decision by the Procurement Official.

(1) Following the Procurement Official's written decision on the protest, Protestor may file a request for a review of the Procurement Official's decision with the County Administrator. The request for review shall be made in writing and filed with the Procurement Division by 5:00 p.m. on the fifth business day following notification of the Procurement Official's decision. The request for review must be accompanied by security in the form of a bond (in a form and with such terms as approved by the Procurement Official or designee) or cash in the amount of \$10,000.

(2) The County Administrator shall issue a written decision within thirty (30) days of the date the request for review is received.

(e) Final Decision. The decision of the County Administrator shall be final and conclusive as to the protest.

Bid Protest Policy/Procedure

Solicitation Award Protests

1. Any actual bidder, proposer, or contractor who is aggrieved in connection with the notice of intent to award a contract (Protestor) with a value greater than \$250,0000, where such grievance is asserted to be the result of a violation of the requirements of this purchasing code or any applicable provision of law by the officers, agents, or employees of the County, may file a protest to the Procurement Official.
2. Protest must be in writing and transmitted via email at purchasing@mymanatee.org or hand delivery to Manatee County Financial Management Department, Procurement Division, 1112 Manatee Avenue West, Suite 803, Bradenton, Florida, 34205. The protest must be submitted and received by the Procurement Official by 5 p.m. on the fifth business day following the date of posting of the Notice of Intent to Award on the County website. Postmark by the required date and time is not sufficient. It shall be the responsibility of the party transmitting the Protest document(s) to ensure that the document(s) was received by the County and the transmitting party will bear any risk of an interruption or failure in transmission of such documents.
3. Protestor is not permitted to challenge the solicitation requirements, chosen procurement method, the evaluation criteria, the relative weight of the evaluation criteria, or the formula specified for assigning points to the evaluation criteria in its Protest.
4. There is no stay of the procurement process during a protest.
5. During any protest, no contact with County Board members, officers or employees, other than the Procurement Official or designee and the County Attorney's Office, is permitted from Protestor.
6. Once filed and received by the Procurement Official, the Protest may not be supplemented by the protestor. However, the County has the right to seek clarification and additional information as needed.
7. Failure to follow the requirements of this Protest Policy shall be just cause for rejection of the Protest and will result in an automatic disqualification of protestant for award for the pending solicitation.
8. The Protest shall include the following information:
 - i. The name, postal and email addresses, facsimile and telephone numbers of the protestor;
 - ii. County solicitation title and number or contract title, as applicable;
 - iii. A concise statement indicating the grounds and evidence, including facts, rules, regulations, statutes and constitutional provisions, the factual and legal basis, upon which the Formal Protest is based, with the inclusion of all supporting

- documentation. The protestor waives its rights and remedies related to any grounds not specifically stated in writing;
- iv. A statement of the specific ruling or relief requested; and
 - v. Signature of the protestant or an authorized agent of the protestant.
9. The Procurement Official shall have the authority to settle and resolve a protest concerning the intended award of a contract. The Procurement Official shall promptly investigate the protest and issue a written decision within thirty (30) days of the date the protest is received.

Appeal of Formal Protest Decision

1. Following the Procurement Official's decision of the protest, any adversely affected Protestor may file a request for appeal with the County Administrator within five (5) days of notification of the Procurement Officials decision regarding the protest. Appeals received after this timeframe shall not be considered.
2. The request for appeal must state that the Protestor is submitting an appeal of the Procurement Official's decision.
3. Failure to follow the requirements of this Policy shall be just cause for rejection of the appeal.
4. There is no stay of the procurement process during an appeal.
5. An appealing party may be represented by legal counsel at its own expense.
6. Once filed and received by the County, the appeal may not be supplemented. However, the County has the right to seek clarification and additional information as needed.
7. The appeal must include the following information:
 - i. The name, postal and email addresses, facsimile and telephone numbers, of the party filing the appeal;
 - ii. Authority solicitation title and number or contract title, as applicable;
 - iii. A concise statement indicating the grounds and evidence, including facts, rules, regulations, statutes and constitutional provisions, the factual and legal basis, upon which the appeal is based, with the inclusion of all supporting documentation. New grounds or evidence not previously set forth in the Protest will not be considered;
 - iv. A statement of the specific ruling or relief requested; and
 - v. Signature of the party filing the appeal or an authorized agent of the party filing the appeal.
8. Security Bond. The appeal, must be accompanied by a security in the form of a bond (in a form and with such terms as approved by the Procurement Official or designee) payable to Manatee County Government in the amount of \$10,000. The surety issuing the bond must be authorized to do business in the State of Florida and be in compliance with the Florida

Insurance Code. Any bond submitted shall have a duly executed power of attorney attached.

In lieu of a bond, the County may accept an irrevocable letter of credit, cashier's or certified check, or money order in the aforementioned amount (in a form and with such terms as approved by the Procurement Official or designee). Noncompliance with this requirement, in whole or in part, will be deemed to be a waiver of the right to appeal. Said security shall be designated and held for the payment of any costs that may be levied against the appealing party. If protestor's appeal is successful, the posted security will be refunded in full.

If the County prevails, the County shall assess against the appealing party reasonable costs incurred by the County. Such assessment will be set forth in the written decision. Costs of the appeal assessed against the appealing party shall be paid to the County within five (5) business days after receipt by the appealing party of the decision of the County Administrator. Any costs not fully discharged by the amount of the appealing party's bond shall be paid by the appealing party. Failure to timely pay said costs shall result in the appealing party being suspended from competing for any other contract with the County until such payment is made in full.

9. The County Administrator shall investigate the appeal and shall promptly issue a decision in writing to the Protestor.
10. If the protest is upheld, the relief granted may include, but is not limited to, one or more of the following:
 - i. Cancel the solicitation and/or contract.
 - ii. Award in part.
 - iii. Re-compete the procurement.
11. In no event will a contract be automatically awarded to Protestant if the protest is upheld. Nothing herein shall prevent the County, at its sole discretion, from providing for an alternative remedy which is in the best interest of the County and in compliance with any applicable law.
12. During any appeal, no contact with County Board members, officers or employees, other than the County Administrator, Procurement Official or their designee and the County Attorney's Office, is permitted from Protestor.
13. Decisions of the County Administrator are final, subject to appeal by appropriate court action.