

TWC PROCUREMENT AND CONTRACT SERVICES
PHS 1113 Vendor Protest Procedure

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Subject Matter Expert:	Solicitations and General Purchasing Manager
Owner:	PHS Director
Approved by:	PCS Director

1.0. Purpose

The Texas Workforce Commission (TWC) has formulated this procedure to comply with the comptroller's rules and [Texas Government Code § 2155.076](#) for resolving vendor protests relating to purchasing issues.

2.0. Objective(s)

To provide TWC staff step-by-step guidance for resolving a formal protest filed by a respondent who is allegedly aggrieved in connection with the solicitation, evaluation, or award of a contract by TWC under [40 Texas Administrative Code §800.301](#).

3.0. Applicability

This Procedure applies to and is the responsibility of the staff, positions, or business areas listed below.

- Purchasing and Historically Underutilized Business (HUB) Services (PHS) Staff
- PHS Director
- Procurement and Contract Services Director

- Business Operations Director
- Deputy Executive Director
- Office of General Counsel (OGC) Attorney

4.0. Cross References

[Texas Government Code § 2155.076](#)

[40 Texas Administrative Code §800.301](#)

5.0. Narrative Procedure

This SOP provides TWC staff instructions to verify, specify, submit, determine, appeal, and document formal protests. It also provides guidance for TWC staff on how to process a protestor's appeal of a TWC protest determination and how to proceed when a solicitation has been posted and after a contract award has been made, but before receipt of the protest. Formal protests must conform to the following requirements addressed in this Vendor Protest SOP:

- Verification
- Specifications
- Submission
- Determination
- Appeal
- Documentation management

5.1. Verify

A respondent may file a written protest with the Director of Business Operations for actions taken by the TWC on the following:

- a. the solicitation documents or actions associated with the publication of the solicitation document;
- b. the evaluation or method of evaluation for a solicitation; or

- c. the award of a contract.

5.2. Specify

An acceptable formal protest must be in writing, and an authorized representative of the protestor must sign and notarize it. Protests should contain the following information¹:

- a. The identifying name and number of the solicitation being protested;
- b. Identification of the specific statute or regulation that the protestor alleges has been violated;
- c. A specific description of each act or omission alleged to have violated the statutory or regulatory provision identified above in (b);
- d. A precise statement of the relevant facts including:
 - (i) sufficient documentation to establish that the protest has been timely filed; and
 - (ii) a description of the resulting negative impact to the protestor;
- e. a statement of the argument and authorities that the protestor offers in support of the protest;
- f. an explanation of the action the protestor is requesting from TWC; and
- g. a statement confirming that copies of the protest have been mailed or delivered to any other interested party known to the protestor.

¹ If the respondent fails to meet one or more of these conditions, the protest shall be considered invalid.

5.3. Submit

In order for the protest to be considered valid, the respondent must email, mail, or deliver the protest to the Director of Business Operations no later than ten (10) working days after the protestor knows, or should have known, when the action that is protested has happened.

5.4. Determine

A protest that is not filed timely shall not be considered unless good cause for delay is shown or the Director of Business Operations determines that the protest raises issues that are significant to TWC procurement practices or procedures. If a valid protest or an appeal of a protest has been filed before award, TWC must not proceed with the solicitation or the award of the purchase until TWC provides a final written disposition of the protest in accordance with these procedures. The Director of Business Operations may waive this requirement in spite of a timely and valid protest upon determining that TWC must award a contract or solicitation without delay to protect the interests of TWC and the state.

5.5. Appeal

Protestor may appeal the Business Operation Director's determination to the Deputy Executive Director. The Deputy Executive Director must receive the protest no later than 10 business days after the date of receipt of the Business Operations Director's written determination. Absent documentation to the contrary, the protestor's receipt of the Director of Business Operations' written determination is presumed on the third day following the date of the written determination. Protesting party must email, mail, or deliver to all other parties a copy of the appeal, which must contain a certified statement that such copies have been provided.

5.6. Document

All records regarding TWC's solicitation, purchasing and contracting processes are maintained in accordance with the approved TWC Records Retention Schedule. PHS Staff must maintain protest documents and appeals received and issued by TWC in the purchasing file.

6.0. Step-by-Step Procedures

6.1. Handling a Timely Protest Filed Prior to Contract Award

Step	Responsibility	Action
1	Business Operations Director	Receives a protest and determines whether it is timely and meets the requirements of this procedure. If the protest is untimely or does not meet the requirements listed above, dismisses the protest. If the protest is timely or has raised an issue to TWC procurement practices or procedures, the Director may solicit written responses to the protest from other interested parties and/or attempt to settle and resolve the protest by mutual agreement. Also notifies PCS Director.
2	PCS Director	Notifies the PHS Director that the agency has received a timely protest.
3	PHS Director	Notifies the specific PHS Staff involved in the protest of the protest and that all activities must be paused until a determination is made.

Step	Responsibility	Action
4	Business Operations Director	Gathers all of the pertinent information regarding the procurement being protested. Consults with the PCS Director.
5	PCS Director	Submits a ticket to OGC to review the collected information and determine the validity of the protest through a legal opinion.
6	Business Operations Director	After receiving the legal opinion, reviews it and makes a final determination and decision, consulting with the PCS Director.
7	Business Operations Director	May brief the Executive Director prior to formally issuing the protest determination.
8	Business Operations Director	Issues a written determination that resolves the protest. ² Notifies PCS Director and PHS Director of the results, who relays this information to the purchaser of the determination and whether or not to continue with the solicitation.

² This determination is the final administrative action by TWC on a protest filed under these procedures unless the protestor files an appeal of the written determination in accordance with these procedures.

Step	Responsibility	Action
9	Business Operations Director	Issues a letter containing the final written decision to the protestor. Includes in the letter the process to appeal the determination.

6.2. Handling a Protest Filed After Contract Award

Step	Responsibility	Action
1	PHS Staff; CM	If a PO is issued prior to receipt of the protest (after contract execution), CM must follow the actions in the below steps.
2	PHS Staff; CM	Immediately advises the awarded vendor that a formal protest has been received and provides the known facts concerning the protest.
3	CM	After determining the status of work under the contract, (i.e., shipment of goods is in progress, or performance of the services is underway), instructs the awarded vendor to take no further action until receiving authorization to proceed via written notification.
4	CM	If any portion of the good(s) has been shipped, instructs the receiving location to secure the items, but not electronically receive for payment until the protest is resolved.

Appeal of TWC Written Determination

Step	Responsibility	Action
1	Deputy Executive Director	Upon receiving a timely appeal; reviews and consults with PCS and OGC to make a determination.

Step	Responsibility	Action
2	Deputy Executive Director	Issues the final written decision to the protestor.

7.0. Definitions

Interested Parties:

Respondents in connection with the solicitation, evaluation or award that is being protested.

Protestor:

A respondent vendor that submits a protest under the TWC vendor protest procedures.

Respondent: A vendor that submits an offer or proposal in response to a TWC solicitation.

Solicitation: A document such as an Invitation for Bids (IFB), Request for Offers (RFO), Request for Proposals (RFP), or Request for Qualifications (RFQ) requesting responses from vendors to provide specified goods and services. The term also refers to the process of obtaining responses from vendors to provide specified goods and services.

TWC: Texas Workforce Commission.

Vendor: A potential provider of goods or services to the TWC.

8.0. Version History

Date (mm/dd/yyyy)	Version	Summary of Implementation/Changes
12/2020	1.0	Date of initial publication

Date (mm/dd/yyyy)	Version	Summary of Implementation/Changes
12/2021	1.1	N/A
6/2025	2.0	Updated SOP formatting; minor clarifications