

AVIATION AUTHORITY POLICY

500: LEGAL

LITIGATION & DISPUTES

P512: Procurement Protests

Effective: 08/01/02

**Revised: 03/04/04
11/03/11**

PURPOSE: To establish a policy for protests made by a respondent to any competitive selection process. A competitive selection process includes, but is not limited to, selections made pursuant to request for proposals, request for qualifications, sealed bids and the Consultants' Competitive Negotiation Act.

LEGAL CONSIDERATION: Section 6(1)(c) of the Hillsborough County Aviation Authority Act (Act) grants the Authority the power to exclusively control, supervise, and manage airports in the county and each municipality, except any airport owned, controlled, or operated by a private person. Sections 6(2)(uu) and (ww) of the Act grant the Authority the power to transact business and exercise all legally permissible powers, and perform acts necessary for the general welfare of the Authority. The Authority is not an agency within the meaning of Section 120.52(1), Florida Statutes, and is therefore not subject to the provisions of the Administrative Procedure Act, Chapter 120, Florida Statutes.

POLICY AND PROCEDURE:

A. General

1. Computation of time for purposes of this policy, unless otherwise stated, excludes Saturdays, Sundays, and Authority holidays.
2. Time periods contained in this policy may be modified by the Chief Executive Officer, if necessary, given the subject matter of the protest or other factors necessitating such modification.
3. Protests may not challenge the chosen procurement method, the evaluation criteria, the relative weight of the evaluation criteria or the formula specified for assigning points in any solicitation.
4. All solicitation documents, with respect to contract awards, will set forth the following statement:

“Failure to follow the procurement protest policy set out in the Hillsborough County Aviation Authority’s policies constitutes a waiver of your protest and resulting claims. A copy of the procurement protest policy may be obtained by

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contacting the Authority via telephone at 813-870-8700 or via mail to Hillsborough County Aviation Authority, Post Office Box 22287, Tampa, Florida 33622. The policy is also available on the Authority's website (www.tampaairport.com)."

B. Procedure

1. The Authority will provide all respondents at least seven business days' notice of its intent to award a contract prior to selection or award by the Authority's Board.
2. Informal process – Prior to initiating any formal process under this Policy, respondents must make a good faith attempt to resolve any disputes with the appropriate procurement official. Notwithstanding the informal process, respondents must meet the 72-hour deadline prescribed in this Policy for filing a protest.
3. Any respondent that has submitted a response to a solicitation and, in its opinion, is affected adversely by an intended decision with respect to the award of any bid or proposal that allows the filing of a protest, must file a written protest with the CEO no later than 72 hours prior to award of the contract by the Board.
4. Upon receipt of a bid protest, the CEO will forward a copy of such protest to Legal Affairs. An Authority attorney, together with necessary staff, will determine whether the bidder has standing to pursue a bid protest.
5. The formal written protest must contain the following:
 - a. Authority solicitation name and number.
 - b. The name and address of the proposed recipient of the bid or proposal – the affected party.
 - c. The name, address, title and position of the respondent filing the protest (protester).

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- d. A statement of all disputed issues of material fact. If there are no disputed issues of material facts, the written protest must so indicate.
 - e. A statement indicating the relief to which the protester deems they are entitled.
 - f. A concise statement of all the facts alleged and of all the rules, regulations, statutes, and constitutional provisions entitling the protester relief.
 - g. All other information as the protester deems to be material to the issue.
6. A protest may be amended no later than 72 hours prior to the award of contract.

C. Fact-Finding Group

- 1. Any formal written protest filed in compliance with this Policy will be reviewed by a fact-finding group whose duties are solely to gather data for the CEO.
- 2. The group members include the Vice President of Finance, Administration and Procurement, the Director of Procurement, the relevant procurement agent, and at least one Authority attorney.
- 3. The group will present all data gathered, in the most efficient manner, to the CEO who, after a thorough review of the data, will 1) notify the protestor of the CEO's intended recommendation to the Board and 2) make an independent recommendation to the Board.
- 4. Upon receiving the CEO's recommendation, the Board may: 1) accept the recommendation and issue a written decision or 2) conduct an informal hearing and issue a written decision following presentations by the protester(s) and any affected parties.

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D. Final Decisions

Decisions of the Board are final and subject to review or appeal by appropriate court action, or in some instances by proceedings before federal administrative agencies, in accordance with applicable law. No new facts or issues will be considered by the reviewing court or agency.