



UT System Administration Policy Library -- Policy UTS148

# Protest Procedures Related to Procurements of Goods and Services

Responsible Officer: Executive Vice Chancellor for Business Affairs

Sponsoring Office: Office of Business Affairs

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Errors or changes to: [policyoffice@utsystem.edu](mailto:policyoffice@utsystem.edu)

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## **POLICY STATEMENT**

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This Policy is applicable to protests related to the procurement of goods and services at each institution of The University of Texas System and at System Administration (each referred to herein as an “institution”).

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## **RATIONALE**

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This policy has been implemented to comply with Section 2155.076 of the *Texas Government Code* requiring the development of protest procedures related to the procurement of goods and services.

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## **SCOPE**

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All institutions and UT System Administration

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## **WEBSITE ADDRESS FOR THIS POLICY**

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<http://www.utsystem.edu/policy/policies/uts148.html>

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## **RELATED STATUTES, POLICIES, REQUIREMENTS OR STANDARDS**

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<b>UT System Administration Policies &amp; Standards</b>	<b>Other Statutes, Policies &amp; Standards</b>
	<a href="#">Texas Government Code, Section 2155.076 – Protest Procedures</a>

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## CONTACTS

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If you have any questions about UT System Administration policy UTS 148, Protest Procedures Related to Procurements of Good and Services, contact the following office(s):

Subject	Office Name	Telephone Number	Email/URL
	Office of Business Affairs	512-499-4560	<a href="http://www.utsystem.edu/BUS/contact.htm">http://www.utsystem.edu/BUS/contact.htm</a>

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## DEFINITIONS

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None

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## RESPONSIBILITIES

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### Primary Procurement Officer

- Attempts to resolve and settle a protest concerning the solicitation or award of a contract.
- If that protest is not resolved by mutual agreement, issues a written determination regarding a protest informing the protesting party and the using department of reasons for the determination and any remedial action.
- Informs the protesting party and the using department by letter of the determination, reasons for the determination, and any remedial action.
- Retains all documents related to a protest filed with an institution in accordance with that institution's records retention policy.

### Chief Business Officer

- Considers and issues a written decision regarding appeal of the primary procurement officer's written determination of a protest.

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# PROCEDURES

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## **Section 1: *Protest Procedures.***

Any actual or prospective bidder, offeror, or proposer who is aggrieved in connection with the solicitation, evaluation, or award of a contract by a U.T. System institution, including System Administration, may file a formal protest with the primary procurement officer of the procuring institution. Such protests must be in writing and received in the primary procurement officer's office within 10 working days after such aggrieved person knows, or should have known, of the occurrence of the act or omission being protested.

## **Section 2: *Written Determination to Proceed.***

If a protest meeting the requirements of these procedures is timely received, the institution shall not proceed further with the solicitation or with the award of a contract unless the chief business officer of the institution, after consultation with the using department and the primary procurement officer, makes a written determination that it is necessary to proceed with the solicitation or award a contract without delay to protect the best interests of the institution.

## **Section 3: *Formal Protest.***

A formal protest must contain:

- 3.1 a specific identification of the statutory or regulatory provision(s) that the act or omission being complained of is alleged to have violated;
- 3.2 a specific description of each act or omission alleged to be in violation of the statutory or regulatory provision(s) identified in Section 3.1;
- 3.3 a statement of the relevant facts;
- 3.4 an identification of the issue or issues to be resolved; and
- 3.5 argument and authorities in support of the protest.

## **Section 4: *Primary Procurement Officer Review.***

The primary procurement officer shall attempt to settle and resolve the protest concerning the solicitation or award of a contract by mutual agreement, prior to appeal to the institution's chief business officer. The primary procurement officer may request additional information from the protesting party and the using department to help in the evaluation and resolution of the protest.

## **Section 5: *Written Determination.***

If the protest is not resolved by mutual agreement, the primary procurement officer will issue a written determination on the protest.

- 5.1 If the primary procurement officer determines that no violation of rules or statutes has occurred, the primary procurement officer shall inform the protesting party and the using department by letter that sets forth the reasons for the determination.

5.2 If the primary procurement officer determines that a violation of the rules or statutes has occurred in a case where a contract has not been awarded, the primary procurement officer shall inform the protesting party and the using department by letter that sets forth the reasons for the determination and the appropriate remedial action.

5.3 If the primary procurement officer determines that a violation of the rules or statutes has occurred in a case where a contract has been awarded, the primary procurement officer shall inform the protesting party and the using department by letter that sets forth the reasons for the determination and the appropriate remedial action, which may include ordering the contract void.

**Section 6: *Appeal.***

The primary procurement officer's determination regarding a protest may be appealed by the protesting party to the institution's chief business officer. An appeal of the primary procurement officer's determination must be in writing and must be received in the office of the chief business officer no later than 10 working days after the date of the primary procurement officer's determination.

**Section 7: *Timely Filing of Protest and Appeal.***

Unless good cause for delay is shown or the chief business officer determines that a protest or appeal raises issues significant to procurement practices or procedures, a protest or appeal that is not filed timely will not be considered.

**Section 8: *Appeal Final.***

An appeal to the chief business officer shall be limited to review of the primary procurement officer's written determination of the protest. A decision issued in writing by the chief business officer shall be final.

**Section 9: *Record Retention.***

All documents related to protests filed with an institution will be retained in accordance with that institution's records retention policy.

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## **FORMS AND TOOLS/ONLINE PROCESSES**

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None

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## **APPENDIX**

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None

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Keywords: protest procedures, procurement, administrative

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