

HILLSBOROUGH COUNTY AVIATION AUTHORITY POLICY

500: LEGAL

LITIGATION & DISPUTES

P512: Bid Protests

Effective: 08/01/02

Revised: 03/04/04

PURPOSE: To establish a policy for protests made by a participant (“bidder”) in any competitive process utilized for selection of a person or entity to construct any public improvement, or to provide any supplies, materials or services. A competitive process includes, but is not limited to, selections made pursuant to request for proposals, 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 Executive Director, if necessary, given the subject matter of the protest or other factors necessitating such modification.
3. Protests may not challenge the relative weight of the evaluation criteria or the formula specified for assigning points in any request for proposal or request for qualification.
4. All bid solicitations and bid documents, with respect to contract awards, shall set forth the following statement:

“Failure to follow the bid protest policy set out in the Hillsborough County Aviation Authority’s policies constitutes a waiver of your protest and resulting

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claims. A copy of the bid protest policy may be obtained by 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 bidders at least a seven-day notice of its intent to award a contract.
2. Informal process – Prior to initiating any formal process under this policy, bidders must make a good faith attempt to resolve any disputes with the appropriate procurement official. Notwithstanding the informal process, bidders must meet the 72-hour deadline prescribed in this policy for filing a bid protest.
3. Any bidder that has submitted a bid or proposal and 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 bid protest with the Executive Director no later than 72 hours prior to award of the contract by the Board.
4. Upon receipt of a bid protest, the Executive Director will forward a copy of such protest to Legal Affairs. An Authority attorney, together with necessary staff, will determine whether the bid or proposal associated with the bid protest is responsive. If the bid is determined to be non-responsive, the procedures of this policy will not apply to bidder.
5. The formal written protest must contain the following:
 - a. Authority bid or proposal project name and number.
 - b. The name and address of the proposed recipient of the bid or proposal – the affected party.
 - c. The name and address of the protester, and the title or position of the person submitting the bid protest.

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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 bid 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 Executive Director.
- 2. The group members are the Deputy Executive Director, the relevant procurement official and at least one Authority attorney.
- 3. The group will present all data gathered, in the most efficient manner, to the Executive Director who, after a thorough review of the data, will make an independent recommendation to the Board.
- 4. Upon receiving the recommendation, the Board may 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.