

# PROTEST PROCEDURES

Polk County encourages prompt and fair handling of all complaints and disputes with the business community. In order to resolve disputed matters in an equitable manner without fear of retribution on the part of a vendor or person, the following protest procedures are adopted:

All Purchasing notices with respect to recommendation of awards, suspensions and debarments, shall set forth the following statement:

**“FAILURE TO FOLLOW THE PURCHASING PROTEST PROCEDURE REQUIREMENTS WITHIN THE TIME FRAMES PRESCRIBED HEREIN AS ESTABLISHED BY POLK COUNTY, FLORIDA, SHALL CONSTITUTE A WAIVER OF YOUR PROTEST AND ANY RESULTING CLAIMS.”**

## **RIGHT TO PROTEST**

Any aggrieved, actual or prospective bidder or proposer in connection with a solicitation, suspension, debarment, consultant evaluation, or pending award of a bid or contract may protest to the Purchasing Director.

- A. **NOTIFICATION:** The Purchasing Division shall post all recommendation of awards available for review by the General Public on the front lobby bulletin boards of the Purchasing Division and the County Administration Building. Vendors who submit a bid or request for proposal (RFP), or who are being suspended or debarred, will be notified by email.
  
- B. **INITIAL NOTICE:** Any person adversely affected by an intended decision or action with respect to the initial award of any bid or request for proposal, suspension or debarment shall file with the County’s Purchasing Director a written notice of intent to file a protest. For the purpose of computation, the initial notice of intent to file a protest shall be received by the Purchasing Director not later than four o’clock (4:00) p.m. on the third (3<sup>rd</sup>) workday following the emailing date of the notice of the recommendation of award, suspension or debarment (excluding Saturdays, Sundays and legal County holidays). In addition, a protest bond in the form of a non-refundable cashier’s check in the amount of one thousand dollars (\$1,000.00) shall be submitted with the written initial protest. The initial notice of intent to file protest shall state the basis of the protest (recommendation of award protest, suspension protest, debarment protest), and clearly indicate that its purpose is to serve as the initial notice of intent to file a protest. Failure to clearly indicate its intent or failure to provide a cashier’s check of \$1,000.00 shall constitute a waiver of the right to seek any remedy provided under the protest procedure. Upon the receipt of a timely initial Notice of Protest, the Purchasing Director shall toll the recommendation of award, suspension or debarment. Should the affected party decide to withdraw their initial notice of intent to protest during the tolled action, the \$1,000.00 protest bond will be refunded in full. This is the only reason the County will refund the protest bond.

If during tolled action, the Purchasing Director determines that an Emergency Purchase is necessary, as defined in the Purchasing Procedures Manual, action may be taken to secure the goods or services.

C. **FORMAL NOTICE:** Any person who has filed an initial notice, as described above, shall file a formal written protest within ten (10) calendar days after the date of filing of the initial notice of intent to file a protest. Any amendment to the formal written protest shall be in writing and received by the Purchasing Director within ten (10) calendar days of the initial notice of intent to file protest. No amendments to the protest will be allowed after the ten (10) calendar day period has expired. The formal written protest shall contain the following:

1. County bid or RFP identification number and title (if applicable).
2. Name and address of the department, division or agency affected.
3. The name and address of the affected party, and the title or position of the person submitting the protest.
4. A statement of disputed issues of material fact. If there are no disputed material facts, the written letter must so indicate.
5. Concise statement of the facts alleged and of the rules, regulations, statutes ordinances and constitutional provisions entitling the affected party to the relief requested.
6. The statement shall indicate the relief to which the affected party deems himself/herself entitled.
7. Such other information as the affected party deems to be material to the issue.

D. **PROTEST MEETING:** The Purchasing Director will notify all parties and schedule a protest meeting. The protest will be presented to the Protest Committee, which shall be made up of three (3) members consisting of the Clerk of the Court or designee the Deputy County Manager or designee who will serve as the Chairperson and the Assistant County Manager or designee. The County Attorney or designee shall be present and advise the Protest Committee. The Protest Committee shall meet with the protesting party within fourteen (14) workdays (excluding Saturdays, Sundays and legal County holidays) of receipt of the formal written protest. The response time may be extended, if necessary. All affected parties will be notified of the date and time of the Bid Protest meeting and will be advised to be present at the meeting where they will be allowed the opportunity to present to the Bid Protest Committee. The parties may bring a representative if they so choose. The Purchasing Director or designee shall present the background for the protest to the Committee. The purpose of the protest meeting is: 1) to question and review the basis of the protest; 2) to evaluate the facts and merits of the protest and 3) gather information in order to submit a recommendation to the County Manager. The agenda for the protest meeting will be:

- The Purchasing Director will present the background as to why the recommendation for award was made or why the vendor is being suspended or debarred
- The protesting party or their representative will speak to how they were adversely affected by the decision of the Purchasing Division
- The other affected parties or their representative will be given the opportunity for rebuttal and to present any facts that they deem are relevant to the protest
- During the meeting, the Protest Committee can ask questions of all parties as necessary

- G. The Protest Committee will render their recommendation in writing to the County Manager within five (5) workdays of the bid protest meeting. The County Manager may conduct an evidentiary hearing, if there are disputed issues of material fact. The County Manager will conduct a review and make a final written decision within ten (10) workdays after receipt of the recommendation date of the hearing or the review, whichever is later. The County Manager's decision shall be final and binding. No further protests of the action in question will be heard.
- H. Any person who is aggrieved by the final and binding decision of the County Manager shall be entitled to a review of the final and binding decision by the 10<sup>th</sup> Judicial Circuit Court of Polk County, Florida by filing an appropriate petition with the Clerk of the County within 30 calendar days following the County Manager's final and binding decision.