

Bid Protest Procedures

Right to Protest

Any prospective or actual proposer, offeror, or contractor who is allegedly aggrieved in connection with the solicitation of a proposal or award of a contract, shall have the right to protest. An alleged aggrieved protestant claiming this right is hereby informed that these regulations do not provide for administrative appeal as a matter of right for that alleged aggrieved protestant.

An alleged aggrieved "protestant" is a prospective proposer or proposer who feels that he/she has been treated inequitably by the Housing Authority of the County of San Joaquin (HACCSJ) and wishes the HACCSJ to correct the alleged inequitable condition or situation. To be eligible to file a protest with the HACCSJ pertaining to an RFP/RFQ/IFB or contract, the alleged aggrieved protestant must have been involved in the RFP/RFQ/IFB process in some manner as a prospective proposer (i.e. registered and received the RFP/RFQ/IFB documents) when the alleged situation occurred. The HACCSJ has no obligation to consider a protest filed by any party that does not meet these criteria.

It is totally within the administrative powers of the HACCSJ Executive Director (ED) to grant or deny any requests for administrative appeal. If, in the opinion of the ED, the alleged aggrieved protestant merits an administrative review, the ED shall direct that alleged aggrieved protestant to submit additional data.

Bid Protest Procedure

An alleged aggrieved protestant shall comply with the following protest procedures. Failure to comply in the manner prescribed shall automatically relieve the HACCSJ from accepting or considering that protest:

The alleged aggrieved protestant must file, in writing using the HACCSJ Bid Protest Form, to the HACCSJ Procurement Compliance Officer (PCO) the exact reason for the protest, attaching any supportive data. The protestant must state within the written protest document specifically (not by inference) what action by the HACCSJ or condition is being protested as inequitable, making, where appropriate specific reference to the RFP/RFQ/IFB documents issued. The protest document must also state the corrective action requested. Failure by the alleged aggrieved protestant to fully submit such information shall relieve the HACCSJ from any responsibility to take any corrective action. Protests shall be served by obtaining written and dated acknowledgment from:

**HACCSJ Business Office
2575 Grand Canal Boulevard, Suite 100
Stockton CA 95207**

The written instrument containing the reason for the protest must be received by the PCO within 5 calendar days after the occurrence of the following:

- The deadline for receiving proposals;
- Receipt of notification of the results of the evaluation or the award; or
- The alleged aggrieved protestant knows or should have known the facts.

In any case, protests shall be filed no more than 5 calendar days after any of the above (unless the occurrence being protested occurred in its entirety after the proposal deadline). Protests received after these dates shall not be considered.

The HACSJ PCO shall review the written protest and supportive data, if any. He/she shall, within 10 calendar days after receipt of the written protest, issue a written opinion and decision. This document shall state the reasons for the action taken as well as inform the alleged aggrieved protestant of the right of further administrative review. A copy of this written opinion and decision shall be forwarded to the HACSJ ED.

Administrative Appeal

If the alleged aggrieved protestant does not agree with the written opinion and decision issued by the HACSJ PCO, the alleged aggrieved protestant may, after receipt of the written opinion and decision issued by the HACSJ PCO request an administrative appeal hearing be granted. The following procedures must be complied with in the manner prescribed; failure by the alleged aggrieved protestant to comply shall automatically relieve the HACSJ from accepting or acting on that request for administrative hearing:

The alleged aggrieved protestant must file, in writing, his/her request for an administrative hearing, to the HACSJ ED. This request must be filed within 10 calendar days after the receipt of the HACSJ PCO's written opinion and decision.

The request for an administrative appeal hearing must contain the specific reasons for the appeal and all supporting data for those reasons.

It shall be within the administrative powers of the HACSJ ED to, after review of the request submitted, grant or deny any request for administrative appeal.

If the HACSJ ED, after complete review of the alleged aggrieved protestant's written request and supporting data, decides that the request does not merit further consideration, he/she shall render his/her decision in writing to the alleged aggrieved protestant. A decision rendered under this paragraph shall be made within 10 calendar days after the receipt of the alleged aggrieved protestant's request for an administrative hearing. This decision shall be final without further administrative recourse.

If the HACSJ ED, after review of the alleged aggrieved protestant's written request, decides that the request merits further consideration, he/she shall forward the protestant's written request, along with a cover letter explaining why it merits further consideration and with a recap of all proposals submitted and a copy of the original written protest, to the HACSJ Legal Counsel for consideration. The HACSJ Legal Counsel shall issue to the alleged aggrieved protestant a decision, in writing, within 10 calendar days of his/her receipt of such documents.

Such written decision delivered to the alleged aggrieved protestant shall exhaust the HACSJ internal protest and administrative appeal process available to the alleged aggrieved protestant.

Definitions

"Request For Proposals" (RFP) and "Request For Qualifications" (RFQ) are the formal competitive proposal processes allowed by HUD as defined within Chapter 7 of HUD Procurement

Handbook 7460.8 REV-2. The protest procedures included herein apply to formal RFP and RFO procurements.

"Invitation For Bid" (IFB) is the formal competitive sealed bidding process allowed by HUD as defined within Chapter 6 of HUD Procurement Handbook 7460.8 REV-2. The protest procedures included herein apply to formal IFB procurements.

"Quotes for Small Purchase" (QSP) is the HACSJ's informal competitive quote process allowed by HUD for procurements under \$100,000.00 as defined within Chapter 5 of HUD Procurement Handbook 7460.8 REV-2. The protest procedures included herein DO NOT apply to informal QSP procurements.

"Micro Purchase" is the HACSJ's informal procurement process allowed by HUD for procurements under \$2,000.00 as defined within Chapter 5 of HUD Procurement Handbook 7460.8 REV-2. The protest procedures included herein DO NOT apply to informal Micro Purchase procurements.

"RFP/RFQ/IFB Document(s)" Whether stated in the singular or the plural, such refers to the body of documents, including attachments and the information posted on the hacsj.com internet site, that the HACSJ makes available to all prospective proposers and wherein is detailed the HACSJ's requirements.

"PCO" is the HACSJ Procurement Compliance Officer overseeing the RFP/RFQ/IFB process (as delegated by the HACSJ Executive Director who is the HACSJ Contracting Officer).

"Contracting Officer" when named within an RFP/RFQ/IFB document shall refer to the HACSJ PCO (as delegated by the HACSJ Executive Director who is the HUD-designated HACSJ Contracting Officer).

"Contract" refers to the written agreement that may ensue from the RFP/RFQ/IFB process. Whereas all RFP/RFQ/IFB documents are included, by reference, as a part of the ensuing contract, when "contract" is referred to within an RFP/RFQ/IFB document; such is referring to both the RFP/RFQ/IFB documents and the ensuing contract document.

"Contractor" and the terms "successful proposer" or "successful bidder" may be used interchangeably.

"Days" unless otherwise directed, shall refer to calendar days.

"ED" is the HACSJ Executive Director.

"HA" is the "Housing Authority" or the HACSJ.

"Herein" shall refer to all documents issued pursuant to the noted RFP/RFQ/IFB, including the RFP/RFQ/IFB documents and the attachments.

"HUD" is the United States Department of Housing and Urban Development. HUD is the Federal agency that the HACSJ receives funding from; however, pertaining to the RFP/RFQ/IFB, correspondences, including proposal submittals, received from each proposer must exhaust all provisions contained herein prior to contacting HUD (i.e., in the case of a protest).

"HACSJ" is the Housing Authority of the County of San Joaquin, AKA the San Joaquin Housing Authority. Unless otherwise defined herein or within the ensuing contract, whenever the term "the HACSJ" is used without clearly designating a responsible HACSJ staff person, the proposer(s) may assume that responsibility for that item rests with the HACSJ PCO.

"Offer" is the proposal submittal referred to within the following Section that the proposer delivers to the HACSJ in response to the RFP/RFQ/IFB.

"Offeror(s)" or "Bidder(s)" are the proposers.

"Parties" When "the parties," "both parties" and/or "either party" is stated within the RFP/RFQ/IFB documents or the contract, such refers to the HACSJ and the successful proposer(s).

"Proposal", and/or "Proposal Submittal", and/or "Bid" is the "hard copy" document that the proposer is required to, as detailed within the RFP/RFQ/IFB document, deliver to the HACSJ.

"Prospective Proposer", "Proposer", or "Interested Party" is a prospective proposer is a firm or individual who has been notified of the RFP/RFQ/IFB solicitation and/or who has requested and/or received the RFP/RFQ/IFB documents and is considering responding with a proposal/bid; a proposer is a firm or individual who has submitted a proposal/bid in response to the RFP/RFQ/IFB. All terms and conditions shall apply equally to all prospective proposers as well as proposers, though prospective proposers may not, after the deadline set for receiving proposals, receive further notices pertaining to that RFP/RFQ/IFB--meaning, certain notices (such as the Notice of Results of Evaluation for RFPs and RFQs) are only delivered to proposers and not to prospective proposers. Additionally, an "Interested Party" as referenced in Form HUD-5369 is an actual or prospective bidder whose direct economic interest would be affected by the award of the contract.

"Protest" means a written objection by an interested party to the RFP/RFQ/IFB solicitation or to a proposed or actual award of a contract pursuant to the RFP/RFQ/IFB solicitation.

"Protestant" is a proposer or prospective proposer who feels that he/she has been treated inequitably by the HACSJ and wishes the HACSJ to correct the inequitable condition or situation. To be eligible to file a protest with the HACSJ pertaining to an RFP/RFQ/IFB or contract, the protestant must have been involved in the RFP/RFQ/IFB process in some manner as a prospective proposer (i.e., registered and received the RFP/RFQ/IFB documents).