



# PROCUREMENT PROTEST PROCEDURES

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Vendors have the right to appeal a proposed solicitation or award of contract issued by Community Transit pursuant to the following procedural steps:

## **1.1. Who May Protest or Appeal**

Any document holder showing a substantial economic interest in the award of a contract under the procurement who claims to be aggrieved in connection with the solicitation or proposed award of a contract under the procurement may protest to Community Transit in accordance with the procedures set forth herein.

## **1.2. Timing of Protest**

Protests based on the contents of the procurement shall be submitted no later than seven (7) business days prior to the date and time designated for submittal of bids or proposals. A protest of a proposed award or of an award shall be filed within five (5) business days of the award of a contract or notice of apparent successful proposer/bidder, whichever is sooner.

A written protest in a procurement processed as a Micro Purchase or Simplified Acquisition, whether based on the content of the solicitation or otherwise must be received by Community Transit within the earlier of (a) two (2) business days of the offer submission date or (b) the time the procurement contract is executed or performed.

All Protests received after the timing requirements stated above will be summarily rejected and not be considered at the appeals levels outlined in sections 1.6 and 1.9 below.

## **1.3. Contents of Protest**

A protest shall be in writing and shall include: (1) the procurement title and/or number under which the protest is made; (2) the name, address, fax number and/or e-mail of the allegedly aggrieved party; (3) a detailed description of the specific grounds for the protest and all supporting documentation; and (4) the specific ruling or relief requested. The written protest shall be addressed to: Director of Administration, Community Transit, 7100 Hardeson Road, Everett, Washington, 98203.

## **1.4. Determination of Non-Responsibility (FOR PUBLIC WORKS/CONSTRUCTION ONLY)**

If Community Transit determines a bidder to be not responsible, Community Transit shall provide, in writing, the reasons for the determination. The bidder may appeal the determination within three (3) business days by presenting additional information to the Community Transit Director of Administration. Community Transit shall consider the additional information before issuing its final determination. If the final determination affirms that the bidder is not responsible, Community Transit may not execute a contract with any other bidder until two (2) business days after the bidder determined to be not responsible has received the final determination per 39.04.350.



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## 1.5. Protest Procedure

Upon receipt of a timely written protest, the Director of Administration or designee, will consider the protest in accordance with established procedures and promptly issue a written decision stating the reasons for the action taken and informing the allegedly aggrieved person of their right to appeal the decision to the Chief Executive Officer. A copy of the decision shall be mailed or emailed to the allegedly aggrieved.

## 1.6. Appeal Procedure

The decision made by the Director of Administration or designee, shall be final and conclusive unless appealed in writing to the Chief Executive Officer within five (5) business days of receipt by the Protester of the Director of Administration or designee's decision. The Chief Executive Officer or designee, will consider the appeal and promptly issue a written decision, which shall be final and conclusive. A copy of the decision shall be mailed by U.S. mail and faxed or emailed to the allegedly aggrieved.

## 1.7. Failure to Comply with Requirements

Failure to comply with these protests and appeal requirements will render a protest or an appeal untimely or inadequate and may result in rejection thereof by Community Transit.

## 1.8. Exhaustion of Administrative Remedies

A Protester may not commence litigation prior to exhausting all administrative remedies. Failure to exhaust all administrative remedies shall constitute an absolute waiver of the Protester's right, if any, to commence litigation.

## 1.9. Protests at the FTA Level

When the award is funded in part by Federal Transit Administration (FTA) funds, the vendor may appeal to the FTA pursuant to FTA Regulations. Protests made to the FTA will be limited to Community Transit's failure to have followed its protest procedures, Community Transit's failure to review a complaint or protest, or violations of Federal law or regulation. Any protest to the FTA must be made in accordance with the following guidelines:

- A protest must be filed with the FTA no later than five (5) business days after the protester learns or should have learned of an adverse decision by Community Transit or other basis of appeal to FTA.
- A protest to FTA must be filed in accordance with FTA Circular 4220.1F, as amended.

## 1.10. Notify FTA

Agency staff must notify FTA of protests involving FTA funded contracts in accordance with FTA Circular 4220.1F and must keep FTA informed about the status of the protest.