

## VENDOR PROTEST PROCEDURES

The purpose of these procedures is to set forth the procedures to be utilized by STAR Transit in considering and determining all protests or objections regarding solicitations, proposed award of a contract, or award of a contract whether before or after award. It should be noted that a copy of this protest procedure will be included in all bid or solicitation document packages and is posted to STAR Transit's website.

For a protest to be considered by STAR Transit, it must be submitted by an interested party (as defined below in accordance with the procedures set forth herein). A protest which is submitted by a party which is not an interested party, or which is not in accordance with the procedures shall not be considered by STAR Transit and will be returned to the submitting party without any further action by STAR Transit.

Upon the filing of a valid protest of an FTA-funded procurement, OVRTA /EORTA will notify FTA of the protest and ongoing status, including denial.

### Definitions

The term "bid" includes any bid or offer submitted by a bidder in response to an IFB

The term "proposal" includes any proposal or offer submitted by an offeror in response to an RFP.

The term "contract" means that document to be entered into between STAR Transit and the successful bidder and offeror.

The term "days" refers to normal business days of STAR Transit staff offices.

The term "interested party" means any person: (a) who is an actual or prospective proposer, bidder, or offeror in the procurement involved; and (b) whose direct economic interest would be affected by the award of the contract or by failure to award a contract.

The term "solicitation" means an IFB, RFP, or other form of document used to procure equipment or services.

### Grounds for Protest

Any interested party may file a bid protest with STAR Transit on the grounds that:

- a. STAR Transit has failed to comply with applicable federal, state, local law or regulations.
- b. STAR Transit has failed to comply with its procurement procedures.
- c. STAR Transit has failed to comply with the terms of the solicitation in question, including the failure to adhere to the evaluation criteria set forth in the solicitation, if applicable.
- d. STAR Transit has issued restrictive or discriminatory specifications.

- e. Award is made to other than the lowest responsive and responsible bidder on formally advertised IFB procurements.

### Contents of Protest

A protest must be filed in writing and must include:

- a. The name and address of the protestor
- b. The name and number of the procurement solicitation or a written description sufficient to identify the project being protested
- c. A detailed statement of the grounds for the protest, including all relevant facts and a citation to the federal, state, local law or regulation, the provision of STAR Transit procurement procedures, or specific term of the solicitation alleged to have been violated.
- d. Any relevant supporting documentation the protesting party desires STAR Transit to consider in making its decision.
- e. The desired relief, action, or ruling sought by the protestor

### Filing of Protests

Protests must be filed with:

Executive Director  
STAR Transit  
500 Industrial Blvd.  
Terrell, TX 75160

All protests must be received at STAR Transit address listed above during normal office hours of 8:00 a.m. to 4:00 p.m., Central Standard Time (CST).

If any of the information required by this section is omitted or incomplete, STAR Transit will notify the protestor, in writing, as noted below for the protest to be further considered.

STAR Transit will consider the following categories of bid protests within the time period set forth in each category:

- a. Any bid protest alleging improprieties in a solicitation process or in solicitation documents must be filed no later than five (5) days prior to the scheduled bid opening or deadline for submittal of proposals, as appropriate, in order to be considered by STAR Transit. Any protest based on such grounds not filed within this period will not be considered by STAR Transit. This category of protests includes, but is not limited to, allegation(s) of restrictive or exclusionary specifications or conditions.
- b. Any bid protests regarding the evaluation of bids or proposals by STAR Transit, or improprieties involving the approval or award or proposed approval or award of a contract must be filed with STAR Transit no later than three (3) days after the protestor's receipt of STAR Transit's

written notice of its decision or intended decision to award a contract. Any protest filed after such date which raises issues regarding the bid proposal evaluation, or the contract approval or award will not be considered by STAR Transit.

#### Review of Protest by STAR Transit

STAR Transit will notify the protestor within three (3) days by certified mail of its timely receipt of a bid protest that the protest is being considered. In the notification, STAR Transit will inform the protestor of any additional information required for evaluation of the protest by STAR Transit and set a time deadline for submittal of such information. If STAR Transit requests additional information, and it is not submitted by the stated deadline, STAR Transit may either review the protest on the information before it or decline to take further action on the protest.

In its sole discretion, STAR Transit may give notice of any bid protest to other bidders or proposers for the procurement involved in the protest, as appropriate, and permit such bidders or offerors to submit comments to STAR Transit relative to the merits of the bid protest. STAR Transit will set a time deadline for the submittal of such comments, which will be no less than five (5) days after STAR Transit provides notification of the protest.

In its sole discretion, STAR Transit may schedule an informal conference on the merits of a bid protest. All interested parties will be invited to participate in the conference. Any information provided at the conference will only be considered by STAR Transit in deciding the bid protest if it is submitted to STAR Transit in writing within three (3) days after the conference.

#### Effects of Protest on Procurement Actions

Upon receipt of a timely protest regarding either the solicitation process or the solicitation documents, STAR Transit will postpone the opening of bids or receipt of proposals until resolution of the protest. The filing of the protest will not, however, change the date on which bids or proposals are due unless STAR Transit so determines and notifies all bidders/proposers that such a date change is necessary and appropriate to carry out the goals of the procurement and assure fair treatment for all bidders/proposers.

Upon receipt of a timely protest regarding evaluation of bids or proposals, or the approval or award of a contract, STAR Transit will suspend contract approval or other pending action, or issue a stop work order if appropriate until the resolution of the protest. In this event, the successful bidder or proposer may not recover costs as a change order.

Notwithstanding the pendency of a protest, STAR Transit reserves the right to proceed with any appropriate step or action in the procurement process or in the implementation of the contract in the following cases:

- a. Where the item to be procured is urgently required
- b. Where delivery or performance will be unduly delayed, or other undue harm to STAR Transit will occur by failure to make the award promptly
- c. Where delay would jeopardize life or property

- d. Where STAR Transit determines that proceeding with the procurement is otherwise in the public interest

### Summary Dismissal of Protests

STAR Transit reserves the right to summarily dismiss all or any portion of a protest that raises legal or factual arguments or allegations that have been considered and adjudicated by STAR Transit in a previous protest by any interested party in the same solicitation or procurement action.

### Protest Decisions

After review of a bid protest, the Executive Director shall decide as to the appropriate disposition of such protest. This decision will be made in writing, and this written determination will be final. The decision will be forwarded by certified mail to the protesting interested party.

The decision shall be made based on the information provided by the protestor and other parties, the results of any conferences, and STAR Transit's own investigation and analysis.

If the protest is upheld, STAR Transit will take appropriate action to correct the procurement process and protect the rights of the protestor, including re-solicitation, revised evaluation of bids or proposals, or STAR Transit's termination of the contract.

If the protest is denied, STAR Transit will lift any suspension imposed and proceed with the appropriate state of the procurement process or the contract.

A protest adversely affected by a bid protest decision may appeal such decision to an appropriate court in the State of Texas as determined by STAR Transit.

### FTA-funded Procurements

A protestor that qualifies as an interested party adversely affected by a bid protest decision of the Executive Director may submit a protest to FTA after it has exhausted STAR Transit's administrative remedies. FTA will only review protests regarding:

- a. The alleged failure of STAR Transit to have written protest procedures or the alleged failure to have followed such protest procedures.
- b. The alleged failure to review a complaint or protest.
- c. Alleged violations of Federal law or regulation.

Such protest must be filed no later than five (5) days after the protestor knew or should have known of STAR Transit's alleged failure listed above.