

ATTACHMENT K

Solicitation Protest Procedures

DEFINITIONS:

1. **Adverse Action** – Any denial or reduction in benefits or services to a party, including displacement from
current employment by a workforce center customer.
2. **Appeal** – A written request for a review filed with the Board by a person in response to a determination or a decision.
3. **Board Decision** – The written finding issued by a Board Hearing Officer following a hearing before that
Hearing Office in response to an appeal or complaint.
4. **Complaint** – A written statement alleging a violation of any law, regulation or rule relating to any federal or state-funded workforce service.
5. **Determination** – A written statement issued a workforce center customer by the Board or its contractor(s) relating to an adverse action, or to a provider or contractor relating to denial or termination of eligibility under programs administered by the Board list in §823.1(b).
6. **Hearing Officer** – An impartial individual designated by the Board to conduct hearings and issue administrative decisions.
7. **Informal Resolution** – Any procedure that results in an agreed final settlement between all parties to a complaint or an appeal, in lieu of a formal Board hearing.
8. **Party** – A person who files a complaint or who appeals a determination or the entity against which the complaint is filed or that issued the determination.
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WSA is the responsible authority for handling complaints or protests regarding the procurement and proposal selection process. This includes, but is not limited to, disputes, claims, protests of selection or non-selection for award, or other matters of a contractual or procurement nature. Matters concerning violation of laws shall be referred to such authority as may have proper jurisdiction.

All bidders will be notified in writing of the results of the procurement process within ten (10) working days of the decision of the Board. WSA has established the following process for handling appeals of any procurement decisions:

Step 1 – Written Notice of Appeal: Proposers not selected by this procurement process may appeal the decision by submitting a written Notice of Appeal to WSA within ten (10) business days from date of the announcement of the grant award. This written notice must clearly state that it is an appeal and identify (1) the solicitation decision being appealed; (2) the specific grounds of the appeal, including a description of any alleged acts or omissions by WSA that forms the basis for the appeal; (3) any written information the appealing party believes relevant to the grant award; (4) the basis for the appealing party interest in the grant award; and (5) the name, address, phone and fax number (if available) of the appealing party or parties. The Notice of Appeal must be addressed to and as follows:

CEO Workforce Solutions Alamo
100 N. Santa Rosa, Suite 120

San Antonio, Texas 78207
Dated Material Enclosed

Facsimile or email shall not be accepted at any stage of the appeals process. Written acknowledgement of receipt of the Notice of Appeal will be provided to the appealing party within three (3) working days of receipt of the Notice of Appeal. Such acknowledgement will include specific instructions for completing the appeals process and the date, time and place of the next step, the **Informal Hearing**.

The filing of an appeal within the specified time frame and in the manner required is a non-waivable requirement. There is no relief accorded to appellants for not filing within the published deadlines or following instructions.

Step 2 – Informal Hearing: An Informal Hearing will be held at the offices of WSA within fifteen (15) working days of the receipt of the Notice of Appeal. The Chief Executive Officer of WSA shall act as the Hearing Officer and will meet with the appealing party to discuss their concerns and the specific grounds of the appeal. Materials provided in the Informal Hearing will include a blank copy of the evaluation instrument used by the independent evaluators, a spreadsheet of the scoring results and/or rankings provided to the Board, and the scoring results and/or ranking of the appellant's bid.

The Hearing Officer may recommend to the WSA Board of Directors any appropriate actions allowable under applicable rules and regulations and consistent with agency policies to resolve issues raised at the Informal Hearing. If the appealing party agrees, the appeal may be ended at this point.

Step 3 – Request for a Formal Hearing: If the appealing party is not satisfied with the results of the Informal Hearing, they must inform the Hearing Officer, in writing, no later than three (3) working days from the date of the Informal Hearing of intent to proceed with the appeal. Request for Formal Appeal must state the specific grounds for the appeal and the remedy or remedies requested. Within ten (10) working days of the receipt of this written request, the Hearing Officer will respond, in writing, to inform the appealing party of the time, date and place of Step 4, the **Formal Hearing**.

Step 4 – Formal Hearing: The Formal Hearing shall be conducted within thirty (30) days of the date of the Request for Formal Hearing, or sooner if possible. An independent hearing officer selected by WSA will conduct the Formal Hearing of the appeal. The Hearing Officer will deal only with those issues identified in the Request for Formal Hearing. The Hearing Officer will consider the facts presented as the grounds for the appeal and remedies requested. The Hearing Officer may request additional information from WSA staff or the appealing party. After full review, the Hearing Officer will issue his/her decision not later than fifteen (15) days after the Formal Hearing.

Should the Hearing Officer's determination result in a different outcome for the bidder, such recommendation shall be presented to the Board for consideration and possible action at its next scheduled meeting. The Board is **NOT** obligated to accept the Hearing Officer's determination and/or recommendations. The Board's decision shall be the final decision and end the appeals process at the local level.

If the Hearing Officer's determination does not result in a different outcome to the appellant, such information need not be presented to the Board and the appellant shall be informed in writing of the determination of the Hearing Officer. In such cases, the Hearing Officer's decision shall be the final decision and end the appeals process at the local level.

In all instances, information regarding a protest/dispute will be disclosed to the Texas Workforce Commission. The Texas Workforce Commission's Integrated Complaints, Hearings and Appeals process outlined in 40 TAC §§823, et seq., and the TWC's Financial Manual for Grants and Contracts provide for limited appeals of any local decisions. The Commission will not accept a protest or appeal until all administrative remedies at the local level have been exhausted. Commission appeal review is limited to:
Violations of federal law and regulations
Violations of the Board's protest/dispute procedures or failure to review a protest or dispute

Violations of State or local laws shall be under the jurisdiction of State or local authorities.

Request for Debriefing: A request for a debriefing may be submitted within fifteen (15) days of the receipt of notification of the procurement decision by any unsuccessful bidder **not filing an appeal**. The purpose of the debriefing is to promote the exchange of information, explain the procurement process, including proposal evaluation process, and help unsuccessful bidders understand why they were not selected. Debriefings serve an important educational function for proposers, which hopefully will help them to improve the quality of any future proposals.

WSA will acknowledge receipt of the request for debriefing in writing within ten (10) working days of receipt, along with the time, date, and place of the scheduled debriefing. The debriefing shall be scheduled as soon as possible but no later than thirty (30) days from the receipt of the Request for Debriefing.