



CONCHO VALLEY COUNCIL OF GOVERNMENTS

DEBRIEFING, PROTESTS, AND DISPUTE RESOLUTION

The Concho Valley Council of Governments, hereinafter referred to as “CVCOG”, is a voluntary organization of local governments organized in 1967 under authority granted by the Texas Legislature in 1965 (Chapter 391, Local Government Code). Under provisions of the law, Councils of Governments are political subdivisions of the state, but they are not governments because they have no authority to make laws, levy taxes, or exercise police powers. Councils of Governments are specifically authorized to:

- *conduct planning*
- *assist local governments in implementing plans*
- *provide technical assistance, grant writing and grant administration services*
- *contract with local, state and federal governments and other public and private agencies*
- *review and comment on applications for federal and state grants-in-aid and solid waste permits*
- *assist local governments in solving governmental problems*

The Concho Valley Council of Governments is one of 24 regional councils in Texas. The geographic boundaries of the councils must coincide with the state’s planning regions as designated by the Governor. Membership in Texas’ Councils of Governments includes almost 2,000 local governments and all of the state’s 254 counties.

Policy decisions for the Council are made by its Executive Committee composed of a representative chosen by the local government members of each county, a member of the board of the largest school district, a member representing the region’s largest city, and two members of the Texas legislature whose districts lie partially or wholly within the region.

One of the main goals of CVCOG is to foster a cooperative effort in resolving problems, policies, and plans that are common and regional. Included in CVCOG are the following programs:

- 2-1-1 Texas
- Aging and Disability Resource Center
- Area Agency on Aging
- Concho Valley Council of Governments Administration
- Concho Valley Transit District
- Criminal Justice
- Concho Valley Economic Development District
- Foster Grandparents
- Head Start and Early Head Start
- Homeland Security
- Concho Valley Regional Law Enforcement Academy
- Regional 9-1-1
- Regional Services
- RSVP
- Senior Companion

- Solid Waste
- VISTA

Procurement Protests and Dispute Resolution

CVCOG has adopted these Procurement Protests and Dispute Resolution procedures for

Debriefing

Providing responses to the outcome of a solicitation can help to alleviate the potential for protest. It is CVCOG's goal is to provide responding entities with full information and explanation regarding its procurement process and intends to give the contracting entity a fair and open opportunity to compete for CVCOG's business consistent with the guidelines established in this manual.

Requests for Debriefing

Requests for a debriefing must be made within three (3) business days of notification of non-selection or posting of the Notice of Intent to Award. CVCOG will not conduct debriefings if requests are made after that time.

This procedure is not available to respondents who did not participate in the Solicitation, to nonresponsive or non-timely respondents, or when all responses are rejected.

CVCOG shall make every effort to debrief the unsuccessful offeror as soon as practicable, but may refuse the request for a debriefing if, for compelling reasons, it is not in the best interests of CVCOG to conduct a debriefing at that time.

A. Procedures for Pre-Award Debriefing

A respondent must submit a written request for a debrief and furnished the basis for the selection decision and contract award. Debriefings of successful and unsuccessful respondents can be done orally, in writing, or by any other method acceptable to the contracting officer. The Procurement Department is responsible for performing all debriefs and notes of the evaluation committee regarding strengths and weaknesses of the respondent will be shared with the requesting respondent.

Pre-Award Debriefings shall not disclose:

1. The number of offerors;
2. The identity of other offerors;
3. The content of other offerors' proposals;
4. The ranking of other offerors;
5. The evaluation of other offerors; or
6. Any of the information prohibited in B. Procedures for Post-Award Debriefings.

At minimum, pre-award debriefings shall include:

1. The agency's evaluation of significant elements of the offeror's proposal;
2. A summary of the rationale for eliminating the offeror from the competition; and
3. Reasonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed in the process of eliminating the offeror from the competition.

B. Procedures for Post-Award Debriefings

A respondent must submit a written request for a debrief and furnished the basis for the selection decision and contract award. Debriefings of successful and unsuccessful respondents can be done orally, in writing, or by any other method acceptable to the contracting officer. The Procurement Department is responsible for performing all debriefs and notes of the evaluation committee regarding strengths and weaknesses of the respondent will be shared with the requesting respondent.

The post-award debriefing shall not include point-by-point comparisons of the debriefed offeror's proposal with those of other offerors. Moreover, the debriefing shall not reveal any information prohibited from disclosure or exempt from release under the Freedom of Information Act (5 U.S.C.552) including:

1. Trade secrets;
2. Privileged or confidential manufacturing processes and techniques;
3. Commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information; and
4. The names of individuals providing reference information about an offeror's past performance.

At minimum, post-award debriefings shall include:

1. The Government's evaluation of the significant weaknesses or deficiencies in the offeror's proposal, if applicable;
2. The overall evaluated cost or price (including unit prices) and technical rating, if applicable, of the successful offeror and the debriefed offeror, and past performance information on the debriefed offeror;
3. The overall ranking of all offerors, when any ranking was developed by the agency during the source selection;
4. A summary of the rationale for award;
5. For acquisitions of commercial products, the make and model of the product to be delivered by the successful offeror; and
6. Reasonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed.

Procurement Protests

Prior to submission of a protest, all parties shall use their best efforts to resolve concerns raised by an interested party at the contracting officer level through open and frank discussions.

A. General Requirements for Protest

All protests must be submitted to CVCOG in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail), with sufficient documentation, evidence and legal authority to demonstrate that the Protestor is entitled to the relief requested. The protest must be certified as being true and correct to the best knowledge and information of the Protestor, be signed by the Protestor, and be notarized. The protest must also include a mailing address to which a response

should be sent. Protests received after the deadlines for receipt of protests specified above are subject to denial without any requirement for review or action by CVCOG.

Protests shall be concise and logically presented to facilitate review by the CVCOG. Failure to substantially comply with any of the requirements below may be grounds for dismissal of the protest.

Protests shall include the following information:

1. Name, address, and fax and telephone numbers of the protester.
2. Solicitation or contract number.
3. Detailed statement of the legal and factual grounds for the protest, to include a description of resulting prejudice to the protester.
4. Copies of relevant documents.
5. Request for a ruling by the agency.
6. Statement as to the form of relief requested.
7. All information establishing that the protester is an interested party for the purpose of filing a protest.
8. All information establishing the timeliness of the protest.

All protests must be directed in writing to:

**Executive Director
Concho Valley Council of Governments
c/o CVCOG Procurement Department
5430 Link Road
San Angelo, TX 76904**

Emailed documents must be routed to: procurement-dept@cvcoq.org.

B. Pre-Proposal/Pre-Bid Protests

All protests concerning solicitation specifications, criteria and/or procedures shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the CVCOG Executive Director as specified above not later than 10 business days prior to the deadline for submission of bids/proposals. The CVCOG Executive Director may, within his or her discretion, postpone the deadline for submission of bids/proposals, but in any case, shall provide a written response to all protests not later than five (5) business days prior to the deadline for submission of bids/proposals. If the deadline for submission of bids/proposals is postponed by the CVCOG Executive Director as the result of a protest the postponement will be announced through an addendum to the solicitation. The decision by the CVCOG Executive Director shall be the final agency decision on the matter.

C. Pre-Award Protests

Upon receipt of a protest before award, the contract award will be postponed, pending agency resolution of the protest, unless contract award is justified, in writing, for urgent and compelling reasons or is determined, in writing, to be in the best interest of the Government. Such justification or determination shall be approved by the CVCOG Executive Director.

If award is withheld pending agency resolution of the protest, the contracting officer will inform the offerors whose offers might become eligible for award of the contract. If appropriate, the offerors should be requested, before expiration of the time for acceptance of their offers, to extend the time for acceptance to avoid the need for re-solicitation.

With respect to protests made after the deadline for submission of bids/proposals but before contract award by CVCOG, protests shall be limited to those protests alleging a violation of Federal or State law, a challenge to the bid/proposal evaluation and award process, CVCOG's failure to have or follow its protest procedures or its failure to review a complaint or protest. Such protests shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the CVCOG Executive Director as specified below not later than five (5) business days after the Recommendation for Contract Award announcement by CVCOG.

The CVCOG Executive Director shall provide a written response to all protests not later than three (3) business days prior to the date that CVCOG shall announce the contract award. The decision by the CVCOG Executive Director shall be the final agency decision on the matter.

D. Post-Award Protests

Upon receipt of a protest within ten (10) days after contract award, the contracting officer shall immediately suspend performance, pending resolution of the protest within the agency, including any review by the CVCOG Executive Director, unless continued performance is justified, in writing, for urgent and compelling reasons or is determined, in writing, to be in the best interest of the Government. Protests will only be considered for reasons other than restrictive specifications or alleged improprieties in the solicitation. The decision by the CVCOG Executive Director shall be the final agency decision on the matter.

E. Protest Response

The CVCOG Executive Director shall issue written responses to all protests received by the required protest response dates. All protest responses shall be transmitted by first-class U.S. Postal Service to the address indicated in the protest letter. Protest Procedures/Standards of Conduct For convenience, CVCOG will also send a copy of the response to a protest to the Protester by facsimile and/or electronic mail if a facsimile number and/or electronic mail address are indicated in the protest letter. The protest response transmitted by U.S. Postal Service shall be the official CVCOG response to the protest. CVCOG will not be responsible for the failure of the Protester to receive the protest response by either facsimile or electronic mail.

F. Appeals or Requests for Reconsideration

Appeals and requests for reconsideration must be sent to the CVCOG Executive Director within five (5) business days after issuance of a final decision. The CVCOG Executive Director will issue their decision within ten (10) business days after receipt.

G. FTA Protests (TRANSIT PROCUREMENTS ONLY)

Under certain limited circumstances, an interested party may protest to FTA the award of a Contract pursuant to an FTA grant. FTA's review of any protest will be limited to:

- A CVCOG failure to have or follow its protest procedures, or its failure to review a complaint or protest; or
- Violations of Federal law or regulation

All protests involving contracts financed with federal assistance shall be disclosed to the FTA in accordance with FTA Circular 4220.1F.

Time for Filing:

- Protesters shall file a protest with FTA not later than five (5) business days after a final decision is rendered under CVCOG's protest procedures. In instances where the protester alleges that CVCOG failed to make a final determination on the protest, the protesters shall file a protest with FTA not later than five (5) business days after the protester knew or should have known of CVCOG's failure to render a final determination on the protest.
- CVCOG shall not award a contract for five (5) business days following its decision on a bid protest except in accordance with the provisions and limitations. After five (5) business days, CVCOG shall confirm with FTA that FTA has not received a protest on the Contract in question.

Submission of Protest to FTA:

Protesters shall exhaust all administrative remedies with CVCOG prior to pursuing protests with FTA.

Protests to FTA should be filed in accordance with FTA Circular 4220.1F (as periodically updated) with the FTA Regional Office. A concurrent copy of the protest must be sent to CVCOG.

The protest filed with FTA shall:

- Include the name and address of the protestor.
- Identify the CVCOG project number or the number of the Contract solicitation.
- Contain a statement of the ground for the protest and any supporting documentation. This should detail the alleged failure to follow protest procedures or the alleged failure to have procedures and be fully supported to the extent possible.
- Include a copy of the local protest filed with CVCOG and a copy of CVCOG's decision, if any.

Dispute Resolution Process

CVCOG's policy is to try to resolve all contractual issues in controversy by mutual agreement at the contracting officer's level. Reasonable efforts should be made to resolve controversies prior to the submission of a claim.

Disputes arising in the performance of any agreement or contract, which are not resolved by mutual agreement of the parties, shall be decided pursuant to the dispute resolution process in Chapter 2260 of the Texas Government Code.

Disputes should be addressed in writing as follows:

**Executive Director
Concho Valley Council of Governments
c/o CVCOG Procurement Department
5430 Link Road
San Angelo, TX 76904**

Emailed documents must be routed to: procurement-dept@cvcoq.org.

Performance During Dispute. Unless otherwise directed by the respective Contracting Officer, the Contractor shall continue performance under this Agreement while matters in dispute are being resolved.