

Protest Policy and Procedure

General

Protests may be made by prospective Proposers, Vendors or Proposers whose direct economic interest may be affected by the award of the contract or by failure to award a contract. TARTA will consider all protests filed in a timely manner as described below:

All protests are to be submitted in writing by one of the following: Send by regular United States mail to:

Chief Financial Officer

Toledo Area Regional Transit Authority

1127 W. Central Ave.

Toledo, OH 43697

OR

By electronic mail (E-mail) addressed as follows:

Zach Morrison zmorrison@tarta.com

A protest submission should be concise, logically arranged, and clearly state the grounds for protest. A protest must include at least the following:

- i) Name, address, email address and telephone number of protester;
- ii) Identification of contract solicitation number;
- iii) A detailed statement of the legal and factual grounds for the protest, including copies of relevant documents; and
- iv) A statement as to what relief is requested.

Protests must be submitted to TARTA in accordance with these procedures and time requirements, must be complete and describe all issues that the protester believes relevant.

Protests Before Proposal Opening/Pre-bid Protests:

Protests alleging restrictive specifications or improprieties which are apparent prior to proposal or bid opening or receipt of bids or proposals must be submitted in writing as set forth above and must be received at least seven (7) business days prior to proposal or bid opening or the closing date for receipt of Proposals or bids. If the written protest is not received by the time specified, proposals may be received, and an award made in the normal manner, unless TARTA determines that remedial action is required. Oral protests not followed by a written protest will be disregarded. TARTA may request additional information from the appealing party and information or response from other bidders, which shall be submitted to TARTA not less than seven (7) business days after the date of TARTA's request. So far as practicable, protest decisions will be made by the CFO, the project manager, and others as TARTA deems appropriate. So far as is practical, the decision will be based upon the written appeal, information and written responses submitted by the appealing party and other bidders. If any party fails to timely respond to a request for information, it may be determined by TARTA that such party does not desire to participate in the proceedings, does not contest the matter, or does not desire to submit a response and in such a case, the protest will proceed and will not be delayed due to the lack of a response. Upon receipt and review of written submissions and any independent evaluation that TARTA deems appropriate, TARTA shall render a final decision.

Protests After Proposal Opening and Prior to Award

Protests against the making of an award must be submitted in writing to TARTA and received within seven (7) business days of the award. Notice of the protest and the basis thereof will be given to all bidders or proposers. In addition, when a protest against the making of an award by TARTA is received and it is determined to withhold the award pending disposition of the protest, the bidders, or proposers whose proposals might become eligible for award shall be requested, before expiration of the time for acceptance, to extend or to withdraw the proposal. Where a written protest against the making of an award is received in the time period specified, the award will not be made prior to seven (7) business days after resolution of the protest unless TARTA determines that:

- i) The items to be purchased are urgently required; or
- ii) Delivery or performance will be unduly delayed by failure to make award promptly; or
- iii) Failure to make award will otherwise cause undue harm to TARTA or the federal government.

As far as practicable, protest decisions will be made by the CFO, the project manager, and others as TARTA deems appropriate. So far as practicable, the decision on the protest will be based upon a written appeal, information and written responses submitted by the protesting party and other bidders. If any party fails to timely respond to a request for information, it may be determined by TARTA that such party does not desire to participate in the proceedings, does not contest the matter, or does not desire to submit a response and in such case, the protest will proceed and will not be delayed due to a lack of a

response. Upon receipt and review of written submissions and any independent evaluation that TARTA deems appropriate, TARTA shall render a final decision.

Protest After Award/Post Award Protest

Protests after an award (Post Award Protest) must be submitted in writing to TARTA and must be received no later than seven (7) business days after the award has been made.

In instances where the award has been made, the contractor shall be furnished with the notice of protest and the basis thereof. If the contractor has not executed the contract as of the date the protest is received by TARTA, the execution of the contract will not be made prior to seven (7) business days after resolution of the protest unless TARTA determines that:

- i. The items to be purchased are urgently required; or
- ii. Delivery or performance will be unduly delayed by failure to make award promptly; or
- iii. Failure to make award will otherwise cause undue hardship to TARTA or the federal government.

As far as practicable, protest decisions will be made by the CFO, the project manager, and others as TARTA deems appropriate. So far as practicable, the decision on the protest will be based upon a written appeal, information and written response submitted by the protesting party and other bidders. If any party fails to timely respond to a request for information, it may be determined by TARTA that such party does not desire to participate in proceedings, does not contest the matter, or does not desire to submit a response and in such case, the protest will proceed and will not be delayed due to a lack of a response. Upon receipt and review of written submissions and any independent evaluation that TARTA deems appropriate, TARTA shall render a final decision.

Decision

Any decision pertaining to a protest is final.

Protests to Federal Transit Administration (FTA)

Under certain limited circumstances, an interested party may protest to the FTA if the award is subject to an FTA grant. FTA's review of any such protest will be limited to:

- i. An alleged failure by TARTA to have written protest procedures; or

- ii. An alleged failure to follow such procedures.

Alleged violations of specific federal requirements that provide an applicable complaint procedure shall be submitted and processed in accordance with that federal regulation.

Any protest filed with the FTA must be received by the agency not later than five (5) business days after TARTA renders a final decision on the protest. In instances where the protester alleges that TARTA failed to make a final determination on the protest, the protester shall file a complaint with FTA no later than five (5) business days after the protester knew or should have known of TARTA's failure to render a final determination.

Submission of Protest to FTA

Protests submitted FTA shall be submitted to the FTA Region 5 Office in Chicago, Illinois with a concurrent copy submitted to TARTA. The protest filed with FTA shall:

- i. Include the name and address of the protester;
- ii. Identify the TARTA project number and the number of the contract solicitation;
- iii. Contain a statement of the grounds for protest and any supporting documentation. This should detail the alleged failure to follow TARTA's protest procedures or the alleged failure to have procedures and be fully supported to the extent possible.
- iv. Include a copy of the local protest filed with TARTA and a copy of the TARTA decision, if any.