

Texas Administrative Code

TITLE 13 CULTURAL RESOURCES

PART 1 TEXAS STATE LIBRARY AND ARCHIVES
COMMISSION

CHAPTER 2 GENERAL POLICIES AND PROCEDURES

SUBCHAPTER A PRINCIPLES AND PROCEDURES OF THE
COMMISSION

RULE §2.55 **Protest Procedure**

(a) An aggrieved person who is not satisfied with a decision, procedure, or service received from the staff of the Texas State Library and Archives Commission or who is an actual or prospective bidder, grantee, or contractor aggrieved in connection with a solicitation, evaluation, or award may file a protest with the Director and Librarian in accordance with this rule.

(b) A protest must be submitted to the Director and Librarian within 21 days after the person knows or should have known of the matter which is protested. The Director and Librarian has the discretion to allow a protest filed after 21 days if the protestant shows good cause for the late filing or if the protest raises an issue significant to the general policies and procedures of the commission.

(c) The protestant shall mail or deliver a copy of the protest to all interested persons. The Director and Librarian will furnish a list of interested persons to a protestant. For protests of a competitive selection (bid, contract, or grant), interested persons shall include all persons who have submitted a bid, proposal, or application.

(d) A protest must be in writing and identified as a protest under Commission rule 2.55, and contain the following:

- (1) a description of the protestant's interest in the matter;
- (2) the issue(s) to be resolved and remedy(s) requested;
- (3) the protestant's argument supporting the protest, including a statement of relevant facts and applicable law, specifying the statutes, rules, or other legal authority alleged to have been violated;
- (4) the protestant's affirmation that facts set forth in the protest are true; and
- (5) a certification that a copy of the protest has been mailed or delivered to all interested persons.

(e) Upon receipt of a protest conforming to the requirements of this section, the commission shall not proceed with the solicitation, award, or contract until the protest is resolved, unless the Director and Librarian makes a written determination that delay would harm the substantial interests of the state.

(f) The Director and Librarian has the authority to decide, settle, or resolve the protest and will make a written determination. The Director and Librarian may solicit written responses to the protest from other parties. The Director and Librarian shall inform the protesting party and other interested parties by letter of

his determination, how to appeal the determination to the commission, and how to respond to any appeal which is filed.

(g) An interested party may appeal the determination of the Director and Librarian. An appeal must be in writing and conform to paragraphs (1)-(3) of this subsection:

(1) the appeal must be received in the office of the Director and Librarian no later than 15 days after the date the determination is mailed to interested parties;

(2) a copy of the appeal must be mailed or delivered by the appealing party to all interested parties and contain a certification of mailing or delivery;

(3) the appealing party must state whether or not an opportunity is requested to make an oral presentation to the commission in open meeting.

(h) The Director and Librarian shall refer the matter to the commission for their consideration at an open meeting.

(i) The chair of the commission has the discretion to allow an appeal filed more than 15 days after the Director and Librarian's determination if the appealing party shows good cause for the late filing or if the appeal raises an issue significant to the general policies or procedures of the commission.

(j) An interested party may file a response to an appeal of the determination of the Director and Librarian no later than 15 days after the appeal is mailed or delivered. The chair of the commission has the discretion to allow a response filed more than 15 days after the appeal of the determination by the Director and Librarian if the interested party shows good cause for the late filing or if the response raises an issue significant to the general policies or procedures of the commission.

(k) Copies of the appeal and responses of interested parties, if any, shall be mailed to the commission by the Director and Librarian.

(l) The chair of the commission has the discretion to decide whether or not a request for oral presentations will be granted and will set the order and amount of time for oral presentations that are allowed. The chair also has the discretion to decide whether presentations and written documents presented by Commission staff and interested parties will be allowed.

(m) The commission will determine properly filed appeals and make its decision in open meeting. The commission shall vote to uphold or reverse the decision of the Director and Librarian. Failing a majority vote of the commission to reverse, the Director and Librarian's decision is upheld. The commission's decision is final and not subject to judicial review under the statutes governing the commission.

(n) A decision issued either by the commission in open meeting or in writing by the Director and Librarian shall be the final administrative action of the commission.

(o) Documentation concerning a protest of a competitive selection is part of the commission's records series for that selection and is retained in accordance with the commission's approved records retention schedule.
