

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
TDHCA Governing Board Approved Draft of
10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures,
§1.4, Protest Procedures for Contractors

Disclaimer

Attached is a proposed rule action for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.4, Protest Procedures for Contractors. This four-year review was approved by the TDHCA Governing Board on January 15, 2026. This document, including its preamble, is expected to be published in the February 6, 2026, edition of the *Texas Register* and that published version will constitute the official version for purposes of public comment and can be found at the following link: <https://www.sos.texas.gov/texreg/index.shtml>.

In compliance with §2001.023, Texas Government Code, a summary of the proposed action follows:

10 TAC §1.4, Protest Procedures for Contractors, as part of its four year rule review, has been identified by staff as needing revisions. This section of the rule provides for the procedures that a vendor having submitted a response to a procurement solicitation may use if they seek to protest to the Department. The rule is required to be consistent with the rules of the Texas Comptroller of Public Accounts found at 34 TAC Chapter 20, Subchapter F, Division 3. Staff identified two minor revisions that are necessary to bring the Department rule into greater alignment with the Comptroller's rule.

Public Comment

Public Comment Period: Start: 8:00 a.m. Austin local time on February 6, 2026
End: 5:00 p.m. Austin local time on March 8, 2026

Comments received after 5:00 p.m. Austin local time on March 8, 2026, will not be accepted. Written comments may be submitted electronically within the designated public comment period to: brooke.boston@tdhca.state.tx.us.

Those making public comment are encouraged to reference the specific draft rule, policy, or plan related to their comment as well as a specific reference or cite associated with each comment. Please be aware that all comments submitted to the TDHCA will be considered public information.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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DEPARTAMENTO DE VIVIENDA Y ASUNTOS COMUNITARIOS DE TEXAS

Borrador aprobado por la Junta Directiva del TDHCA respecto a la sección [§] 1.4 [“Procedimientos de objeciones para contratistas”] del subcapítulo A [“Políticas y procedimientos generales”] del capítulo 1 [“Administración”] del título 10 del Código Administrativo de Texas (TAC)

Descargo de responsabilidad

Se adjunta una propuesta de acción reglamentaria respecto a la sección [§] 1.4 [“Procedimientos de objeciones para contratistas”] del subcapítulo A [“Políticas y procedimientos generales”] del capítulo 1 [“Administración”] del título 10 del Código Administrativo de Texas (TAC). Esta revisión cada cuatro años recibió aprobación por parte de la Junta Directiva del Departamento de Vivienda y Asuntos Comunitarios de Texas (TDHCA) el 15 de enero de 2026. Se espera que este documento, incluyendo su preámbulo, se publique en la edición del *Texas Register* del 6 de febrero de 2026. Esa versión publicada constituirá la versión oficial para fines de comentarios públicos y se puede encontrar en el siguiente enlace: <https://www.sos.texas.gov/texreg/index.shtml>.

De conformidad con la sección [§] 2001.023 del Código de Gobierno de Texas, se incluye a continuación un resumen de la acción propuesta:

Como parte de su revisión de reglas cada cuatro años, el personal ha identificado que la sección [§] 1.4 [“Procedimientos de objeciones para contratistas”] del título 10 del Código Administrativo de Texas (TAC) necesita modificaciones. Esta sección de la regla dispone los procedimientos que puede utilizar un proveedor que haya presentado una respuesta a una solicitud de contratación pública si desea presentar una objeción ante el Departamento. Se exige que la regla sea coherente con las reglas de la Contraloría de Cuentas Públicas de Texas que se encuentran en la división 3 del subcapítulo F del capítulo 20 del título 34 del TAC. El personal identificó dos modificaciones menores que son necesarias para que la regla del Departamento esté más en consonancia con la regla de la Contraloría.

Comentarios del público

Periodo de comentarios del público: Inicio: 8:00 a. m., hora local de Austin, del 6 de febrero de 2026

Finalización: 5:00 p. m., hora local de Austin, del 8 de marzo de 2026

No se aceptarán los comentarios que se reciban después de las 5:00 p. m., hora local de Austin, del 8 de marzo de 2026. Los comentarios por escrito pueden enviarse de manera electrónica dentro del período designado de comentarios del público a brooke.boston@tdhca.state.tx.us.

Se anima a quienes formulen comentarios públicos a que hagan referencia al borrador de la regla, política o plan específico relacionado con su comentario, así como una referencia o cita específica asociada a cada comentario. Tenga en cuenta que todos los comentarios enviados al TDHCA se considerarán información pública.

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Attachment 1: Preamble, including required analysis, for proposed amendment to 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.4, Protest Procedures for Contractors

The Texas Department of Housing and Community Affairs (the Department) proposes amending 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.4, Protest Procedures for Contractors. The purpose of the amended section is to make several minor changes to bring this rule into greater compliance with the rules of the Texas Comptroller of Public Accounts found at 34 TAC Chapter 20, Subchapter F, Division 3.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the amendment would be in effect:

1. The amended section does not create or eliminate a government program but relates to minor revisions to bring the rule into greater compliance with the Comptroller's rules on the same subject.
2. The amended section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The amended section does not require additional future legislative appropriations.
4. The amended section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amended section is not creating a new regulation.
6. The amended section will not expand, limit, or repeal an existing regulation.
7. The amended section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The amended section will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the amended section and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The amended section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the amended section as to its possible effects on local economies and has determined that for the first five years the amended section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amended section is in effect, the public benefit anticipated as a result of the new section would be greater consistency between the Department's rule and the Comptroller's rule on the same subject. There will not be economic costs to individuals required to comply with the amended section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the amended section is in effect, enforcing or administering the section does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the proposed amended section and also requests information related to the cost, benefit, or effect of the proposed amended section, including any applicable data, research, or analysis from any person required to comply with the rule or any other interested person. The public comment period will be held February

6, 2026 to March 8, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, March 8, 2026.

STATUTORY AUTHORITY. The amended section is proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amended section affects no other code, article, or statute.

§1.4 Protest Procedures for Contractors

(a) Purpose. The purpose of this rule provides for the Department's compliance with 34 TAC Chapter 20, Subchapter F, Division 3, the rules of the Texas Comptroller of Public Accounts addressing procurement, which require state agencies to adopt protest procedures consistent with the Comptroller's procedures.

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Board--The Governing Board of the Department.

(2) Department--The Texas Department of Housing and Community Affairs.

(3) Interested Parties-- All vendors who have submitted bids or proposals for the contract involved. A list of interested parties is available upon request from the Department.

(4) Protest--A written objection submitted to the Department by any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of a procurement contract by the Department.

(c) These procedures are for Department procurements only. Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with a solicitation, evaluation, or award may formally protest to the Department's Purchasing Officer.

(d) To be considered timely, the Protest must be filed in accordance with the requirements of 34 TAC §20.535(b).

(e) To be considered complete, the Protest must be in writing, signed by an authorized representative, notarized, and contain:

(1) a specific identification of the statutory or regulatory provision(s) that the Person submitting the Protest alleges to have been violated;

(2) a specific description of each action ~~made by the Department~~ that the Person submitting the Protest alleges to have been violated specified in the statutory or regulatory provision(s) identified in paragraph (1) of this Subsection;

(3) a precise statement of the relevant facts including:

(A) sufficient documentation to establish that the Protest has been timely filed;

(B) a description of the adverse impact to the Department and/or the state; and

(C) a description of the resulting adverse impact to the protesting vendor;

(4) a statement of the argument and authorities that the Person submitting the Protest offers in support of the Protest;

(5) an explanation of the subsequent action the Person submitting the Protest is requesting; and

(6) except for a Protest that concerns the solicitation documents or actions associated with the publication of solicitation documents, a statement confirming that copies of the Protest have been mailed or delivered to other identifiable Interested Parties.

(f) The Purchasing Officer shall have the initial authority to settle and resolve the Dispute concerning the solicitation or award of a contract. The Purchasing Officer may dismiss the Protest if it is not timely filed or does

not meet the requirements of this section. The Purchasing Officer may solicit written responses to the Protest from other Interested Parties.

(g) If the Protest is not resolved by mutual agreement, the Purchasing Officer will provide a written recommendation to the Department's Executive Director.

(h) The Executive Director shall issue a final written determination on the Protest within 15 calendar days after receipt of the Purchasing Officer's recommendation in accordance with the requirements of 34 TAC §20.537(c).

(i) In the alternative, the Executive Director may, in his or her discretion, refer the matter to the Department's Governing Board for their consideration at a regularly scheduled meeting. The decision of the Board shall be final.

(j) A protesting party may appeal the determination of the Executive Director under Subsection (hg) of this section to the Department's Governing Board. An appeal of the Executive Director's determination must be in writing and received by the Purchasing Officer not later than 10 calendar days after the date the Executive Director sent written notice of their determination. The scope of the appeal shall be limited to review of the Executive Director's determination. The protesting party must mail or deliver to all other interested parties a copy of the appeal, which must contain a certified statement that such copies have been provided.

(1) The appeal will be presented for consideration at the next regularly scheduled meeting of the Governing Board. The decision of the Governing Board shall be final.

(2) An appeal that is not filed timely shall not be considered unless good cause for delay is shown in writing relating to issues that are significant to agency procurement practices or procedures, or the Department's General Counsel makes such a determination.

(k) All documents collected by the Department as part of a solicitation, evaluation, and/or award of a contract shall be retained with the procurement file according to Department's Records Retention Schedule.

(l) The Department reserves all of its rights under 34 TAC §20.536. The Department may award a solicitation or award without delay, in spite of a timely filed Protest, to protect the best interests of the state.