

# The Metropolitan Water District of Southern California

## Administrative Services Section

### Protest Procedures for Purchasing and Professional and Technical Services Solicitations

Pursuant to the Metropolitan Water District of Southern California's ("Metropolitan or MWD") Administrative Code Section 8151(b), the following protest procedures apply to the competitive procurement process for a solicitation of goods or services, a prequalification selection, or award of a contract. Under the directive of the General Manager, these procedures are administered by the Contracting Services Unit Manager.

A protest regarding a solicitation or award/selection must be sent to the following address and emailed to the Contracting Services Unit Manager and Buyer/Analyst issuing the solicitation.

The Metropolitan Water District of Southern California  
Attn: Contracting Services Unit Manager  
Subject: PROTEST OF SOLICITATION NO. ####, TITLE  
P.O. Box 54153  
Los Angeles, CA 90054-0153

#### Interested Party

Interested party for the purpose of filing a protest means an actual or prospective respondent/bidder whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.

#### **Protest of a Solicitation**

##### Timeline

The Prospective Respondent (or Prospective Bidder) must file a letter of protest with the Contracting Services Unit Manager no later than five (5) business days before the bid or proposal due date specified in the solicitation. Late protests will be dismissed.

##### Protest Grounds

A Prospective Respondent may file a protest if they believe that a solicitation:

- Is unfairly restrictive,
- Contains conflicting or ambiguous provisions making the tendering of a bid or proposal impracticable, or
- Would result in a contract that would be commercially impossible to perform.

##### What to Include in the Protest

The protest must be in writing and must include the following:

- The name, address, and phone number of the Protester.
- The title and solicitation number.
- A detailed statement citing the legal and/or factual grounds supporting the protest,

- including the reason(s) for the protest.
- The form of relief or remedy being requested.

### What Metropolitan Does

The Contracting Services Unit Manager or a designated representative responds after investigating the facts, citing any actions that will or will not be taken regarding the protest

### **Protest of an Award or Prequalification Selection**

#### Timeline

The Respondent (or Bidder) must file a letter of protest with the Contracting Services Unit Manager no later than five (5) business days after the following events. Late protests will be dismissed.

- For Request for Bids, Request for Proposals, or Request for Qualifications, when the Award Pending status has been posted on Metropolitan's e-procurement system.
- For Request for Qualifications establishing a list of prequalified Respondents, when Respondent has been notified of its prequalification selection status.

#### Protest Grounds

A Respondent to the solicitation may file a protest if they believe any of the following have occurred:

- There has been a miscalculation by Metropolitan in determining a submitted price where the price is identified as an evaluation factor.
- There has been an identified irregularity in the evaluation process as outlined in the solicitation.
- The selection was not in accordance with applicable laws or the MWD Administrative Code.

#### What to Include in the Protest

- The protest must be in writing and must include:
- The name, address, and phone number of the Protester.
- The title and solicitation number.
- A detailed statement of the legal and/or factual grounds supporting the protest.
- A detailed statement explaining how the respondent would have otherwise received the award had the situation not occurred.
- The form of relief or remedy being requested.

### What Metropolitan Does

The Contracting Services Unit Manager or a designated representative responds after investigating the facts, citing any action that will or will not be taken regarding the award/selection.

## **Protest Appeals**

### Timeline

Respondents must file the appeal no later than five (5) business days from having received the decision of the Contracting Services Unit Manager. Late appeal filings will be dismissed.

### Protest Appeals Board

A Protester wishing to appeal the protest decision of the Contracting Services Unit Manager may request a hearing of the Protest Appeals Board. The Protest Appeals Board consists of three members of the Executive Committee of Metropolitan's Board of Directors.

All information the Protester wishes the Protest Appeals Board to consider must be submitted prior to the Protest Appeals Hearing. The Protest Appeals Board will not consider new evidence that has not been provided to both the Protester and Metropolitan prior to the Protest Appeals Hearing.

### Appeal Letter

The appeal must be in the form of a letter stating the reasons for the appeal. The letter must be directed to the Board of Directors and sent to the following address, with a copy to the Contracting Services Unit Manager.

The Metropolitan Water District of Southern California  
Board of Directors  
Attn: Board Administrator  
Subject: PROTEST APPEAL OF SOLICITATION NO. ####, TITLE  
P.O. Box 54153  
Los Angeles, CA 90054-0153

### What Metropolitan does

Upon receipt of the letter, the Chairperson may impanel the Protest Appeals Board if they determine that a hearing on the protest is appropriate.

- The Protest Appeals Board provides the Protester a protocol for the Protest Appeals Hearing no later than seven (7) business days before the scheduled hearing.
- If the Protester fails to appear at the Protest Appeals Hearing, the Protester's Appeal will be deemed abandoned and dismissed by the Protest Appeals Board.
- After the hearing, the Protest Appeals Board renders a decision in writing to the protester and the Contracting Services Unit Manager approximately ten (10) business days after the hearing. The decision of the Protest Appeals Board is final.
- If the protest is sustained in whole or part, an appropriate remedy is implemented.

### Revision of Protest Procedures

These procedures are subject to review and revision by Metropolitan on an as needed basis.