

The Metropolitan Water District of Southern California

Engineering Services Group

Public Works Bid Protest Procedures

Pursuant to MWD Administrative Code Section 8150, the following bid protest procedures apply to bid protests of competitively solicited public works contracts. Under direction of the General Manager, these procedures are administered by the Engineering Services Group of The Metropolitan Water District of Southern California (Metropolitan).

Sec. 1. Letter of Objection: Staff-Level Determination.

- a. Prior to filing a formal bid protest, as provided herein at Section 2, a bidder must submit a letter to the Construction Contracts Team Manager (CCT Manager) objecting to the award of a contract or a pre-award determination.
- b. The Letter of Objection must be submitted within five (5) business days after the bid opening.
- c. The letter must include the following:
 - i. Name, address, and phone number of the objecting bidder
 - ii. Title and solicitation number of the bid award being objected to
 - iii. Detailed explanation of the objection
 - iv. Signature and date of the objecting bidder
 - v. Letters of Objection shall be sent to:

Construction Contracts Team, Attention CCT Manager
The Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, CA 90054-0153

- d. The CCT Manager shall evaluate the letter and determine whether to grant or deny the objection. A Determination Letter shall be served on the objecting bidder, as well as the apparent low bidder, and any other interested parties within five (5) business days of receipt of the Letter of Objection, at the discretion of the CCT Manager.
- e. The objecting bidder may appeal the Determination Letter issued by the CCT Manager in accordance with the formal bid protest procedures set forth in Section 2. Late letters of objections shall be dismissed.

Sec. 2. Formal Bid Protest: Appeal of Staff-Level Determination.

- a. Any submittal of an appeal by the objecting bidder of a Determination Letter by the CCT Manager shall constitute a formal bid protest.
- b. A formal bid protest by the objecting bidder shall be made by mailing five (5) hard copies and one (1) electronic copy on a CD or USB flash drive to the Board Administrator at the following address:

Board Administrator
The Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, CA 90054-0153

In addition, the objecting bidder shall email the formal bid protest to:
specsdesk@mwdh2o.com and include the solicitation number in the subject line.

- c. The formal bid protest must be filed with the Board Administrator within five (5) business days after the CCT Manager serves the Determination Letter on the objecting bidder. Any such protest received later than five (5) business days shall be considered untimely, and the formal bid protest shall be rejected.
- d. The formal bid protest must include the following:
 - i. Name, address, and phone number of the protesting bidder
 - ii. The title and solicitation number of the solicitation being protested
 - iii. A detailed explanation of why the staff-level determination is being protested, including relevant facts and evidence, and legal support, for the alleged issues and claims therein
 - iv. Signature and date of the protesting bidder
- e. The Board Administrator shall notify the General Manager of the formal bid protest.
- f. The General Manager shall prepare and forward the written record of the staff-level determination to the chair of the Engineering and Operations Committee (committee).

Sec. 3. Bid Protest Hearings.

- a. The committee shall conduct and decide formal bid protests.
- b. The committee chair shall schedule the bid protest hearing no later than fifteen (15) calendar days from the date the Board Administrator receives the formal bid protest.
- c. The committee chair shall give notice of the bid protest hearing to the protesting bidder, and other affected parties, not less than seven (7) business days prior to the scheduled hearing.
- d. The bid protest hearing notice shall include:
 - 1. Date, time, and location of the hearing;
 - 2. General Hearing Guidelines, as set forth in Section 4; and,
 - 3. Specific rules and procedures, if any, as determined by the committee chair.
- e. The committee chair shall conduct the hearing; receive evidence and testimony; and, rule on the admissibility of evidence.
- f. The committee shall consider the issues and claims set forth in the protest, the written record of the staff-level determination, and the evidence and testimony presented during the hearing.
- g. The committee shall issue a written decision, signed and dated, stating its findings in support of their determination.
- h. The committee chair shall direct the Board Administrator to render a copy of the decision on the protesting bidder and other noticed parties.
- i. The Board Administrator shall, upon receiving directions from the committee chair, render a copy of the decision on the protesting bidder and other noticed parties, and prepare a written record of the protest hearing.
- j. If the protesting bidder fails to appear and participate in the hearing, the committee may summarily rule upon the bid protest based on information then available.
- k. The committee chair may delegate any formal bid protest hearing to three-member ad hoc subcommittee. The subcommittee shall follow the same hearing procedures and timeline contained in this Section 3.
- l. The decision of the committee (or subcommittee) shall become final upon its being rendered on the protesting bidder.

Sec. 4. General Hearing Guidelines.

These General Hearing Guidelines are to be provided to the protesting bidder, and other affected parties, with the required hearing notice.

Metropolitan Water District of Southern California

Engineering Services Group

Public Works

General Hearing Guidelines

1. Formal rules of evidence and procedure do not apply to bid protest hearings.
2. The Engineering and Operations Committee (committee) or a three-member ad hoc subcommittee thereof (subcommittee) shall be free to ask the protesting bidder or Metropolitan staff questions or request clarification in any manner it deems appropriate to make a just decision.
3. The committee (or subcommittee) may accept and consider written documents and hear oral testimony and arguments from the protesting bidder and Metropolitan staff.
4. The committee (or subcommittee) shall be free to organize the hearing as it deems appropriate for a fair and orderly presentation. Each side may be limited to fifteen (15) minutes of time for oral argument, though that period may be shortened or extended for both sides at the discretion of the committee (or subcommittee) in the interests of fairness.
5. The committee (or subcommittee) shall render the bid protest hearing decision to the protesting bidder, bid awardee, and other noticed parties, and to Metropolitan staff.
6. The bid protest hearing decision becomes final when it is rendered to the protesting bidder.