

The Metropolitan Water District of Southern California

Engineering Services Group

Protest Procedures for Public Works Solicitations

Pursuant to MWD Administrative Code Section 8151(a), the following protest procedures apply to protests of competitively solicited public works contracts, which include traditional design-bid-build public works contract solicitations let out for bid pursuant to Administrative Code Section 8144 (Posting and Advertising for Competitive Sealed Bidding), as well as design-build, progressive design-build, or construction manager/general contractor public works contract solicitations let out pursuant to Administrative Code Section 8148 (Alternative Project Delivery). 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 protest, as provided herein at Section 2, the objecting firm must submit a letter to the Construction Contracts Unit Manager (CCU Manager) objecting to the award of a contract.
- b. The Letter of Objection must be submitted within five (5) business days after the bid opening (for competitive low bid solicitations) or five (5) business days after a selection letter (for Alternative Project Delivery solicitations) is served by Metropolitan.
- c. The letter must include the following:
 - i. Name, address, and phone number of the objecting firm;
 - ii. Title and solicitation number of the award being objected to;
 - iii. Detailed explanation of the objection; and
 - iv. Signature and date of the objecting firm.
- d. Letters of Objection shall be sent to:

Construction Contracts Unit, Attention Construction Contracts Unit Manager
The Metropolitan Water District of Southern California P.O. Box 54153
Los Angeles, CA 90054-0153
specsdesk@mwdh2o.com
- e. The CCU Manager shall evaluate the letter and determine whether to grant or deny the objection. A Determination Letter shall be served on the objecting firm, as well as the apparent low bidder (for competitive low bid solicitations) or the selected entity (for Alternative Project Delivery solicitations), if applicable, and any other interested parties within five (5) business days of receipt of the Letter of Objection, at the discretion of the CCU Manager.
- f. The objecting firm may appeal the Determination Letter issued by the CCU Manager in accordance with the formal protest procedures set forth in Section 2. Late letters of objections shall be dismissed.

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

- a. Any submittal of an appeal by the objecting firm of a Determination Letter by the CCU Manager shall constitute a formal protest.
- b. A formal protest by the objecting firm 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 firm shall email the formal protest to:
specsdesk@mwdh2o.com and include the solicitation number in the subject line.

- c. The formal protest must be filed with the Board Administrator within five (5) business days after the CCU Manager serves the Determination Letter on the objecting firm. Any such protest received later than five (5) business days shall be considered untimely, and the formal protest shall be rejected.
- d. The formal protest must include the following:
 - i. Name, address, and phone number of the protesting firm;
 - 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; and
 - iv. Signature and date of the protesting firm.
- e. The Board Administrator shall notify the General Manager of the formal 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. Formal Protest Hearings.

- a. The committee shall conduct and decide formal protests.
- b. The committee chair shall schedule the formal protest hearing no later than fifteen (15) calendar days from the date the Board Administrator receives the formal protest.
- c. The committee chair shall give notice of the protest hearing to the protesting firm, and other affected parties, not less than seven (7) business days prior to the scheduled hearing.
- d. The 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 firm 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 firm and other noticed parties, and prepare a written record of the protest hearing.
- j. If the protesting firm fails to appear and participate in the hearing, the committee may summarily rule upon the formal protest based on information then available.
- k. The committee chair may delegate any formal 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 firm.

Sec. 4. General Hearing Guidelines.

These General Hearing Guidelines are to be provided to the protesting firm, 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 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 firm 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 firm 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 formal protest hearing decision to the protesting firm, awardee, and other noticed parties, and to Metropolitan staff.
6. The formal protest hearing decision becomes final when it is rendered to the protesting firm.