

## CHAPTER XII

### BID PROTEST PROCEDURES

#### Bid Protest Procedures/Policy Before Bid Opening

Each bid proposal shall set a timetable for filing a protest before a bid opening, (10 working days).

The most common types of protest that might be filed before a bid opening would include one based upon restrictive specifications, or alleged improprieties in any type of solicitation that is apparent prior to the scheduled bid opening.

RTA will grant the protesting firm a fair review, and allow up to 10 working days to review or appeal a decision provided no state or federal law or regulation has been violated.

It is the intent of RTA to resolve all protests at the local level.

When a protest is filed before a scheduled bid opening certain steps must be followed:

- A. The protest must be submitted in writing within the specified time frame and sent to the Executive Director for determination. (10 working days)

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- B. The protest must contain the reason(s) for the protest and should recommend a remedy.
- C. Where appropriate, RTA will hold an informal conference on the merits of a protest with all interested parties allowed to attend. Interested parties may include all bidders/offerors and subcontractors or suppliers provided they have a substantial economic interest in a portion of the IFB or RFP.
- D. All potential bidders will be advised of a pending protest.
- E. RTA shall not open bids prior to the resolution of the protest, unless it is determined that;
1. The items to be procured are urgently required, or;
  2. Delivery or performance will be unduly delayed by failure to make the award promptly, or;
  3. Failure to make prompt award will otherwise cause undue harm to RTA or the Federal Government.
- F. RTA will respond in writing within 10 working days after receipt of a properly filed protest. The response will be provided by the Finance Department and will include a response to each substantive issue raised in the protest.
- G. After the exhaustion of administrative remedies the protesting party will be given our final decision. The CFO/Deputy Director/Admin has the authority to make the final determination regarding all protests. If the protest is not resolved, and if FTA funded, a protest may then be filed with FTA within 5 working days after receipt of our final decision.

Note that FTA will only entertain a protest that the grantee failed to have or follow their protest procedures. A protest to FTA must be filed in accordance with FTA Circular 4220.1F.

### Bid Protest Procedures/Policy After Bid Opening/Post Award

A protest filed after a bid opening or post award must be filed within 5 working days after the bid opening or notice of award.

The types of protests most commonly filed after bid openings are varied, e.g., one in which the award is made to other than the low bidder, changes to the criteria during bid evaluation, bid compliance, etc.

RTA will grant the protesting firm a fair review, and allow up to 10 working days to review or appeal a decision provided no state or federal law has been violated.

It is the intent of RTA to resolve all protests at the local level.

All protests, including FTA funded projects, must follow certain guidelines.

- A. The protest must be submitted in writing within the specified time frame and sent to the RTA for determination (unless otherwise specified, five working days).

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- B. The protest must contain the reason(s) for the protest and recommend a remedy.
- C. Where appropriate, RTA will hold an informal conference on the merits of a protest with all interested parties allowed to attend. Interested parties may include all bidders/offerors and subcontractors or suppliers provided they have a substantial economic interest in a portion of the IFB or RFP.
- D. RTA will respond in writing within 10 working days after receipt of the protest. The response will be provided by the CFO/Deputy Director will include a response to each substantive issue raised in the protest.
- E. After exhaustion of administrative remedies the protesting party will be given our final decision. The Executive Director has the authority to make the final determination regarding all protests. If the protest is not resolved, and if FTA funded, a protest may then be filed with FTA within 5 working days after receipt of our final decision.
- F. RTA will allow for a request for reconsideration (if data becomes available that was not previously known, or there has been an error of law or regulation).

Note that FTA will only entertain a protest that the grantee failed to have or follow their protest procedures. A protest to FTA must be filed in accordance with FTA Circular 4220.1F.

After a protest that has been rejected by the FTA the protesting firm may file with the Superior Court of the State of California, San Luis Obispo County, 1050 Monterey St, San Luis Obispo, CA 93408