



PLACER COUNTY WATER AGENCY
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BID PROTEST AND APPEAL PROCEDURES FOR AGENCY PURCHASES

The Agency's Purchasing Policy defines a "Purchase" or "Purchases" as the purchase of supplies, materials, equipment, leases and contractual services for the Agency. "Purchases" do not include construction contracts or facilities agreements. The following bid protest and appeal procedures apply to purchases but do not apply to the award of a public works contract for construction/installation of an improvement or unit of work within the Public Contract Code.

PROTESTS AND APPEALS

GENERAL

Any bidder or offeror who is allegedly aggrieved in connection with the solicitation or pending award of a purchase contract may protest to the Director of Financial Services.

The Director of Financial Services, or designee, posts on the Agency website and notifies all bidders of the Agency's intent to award a bid. The intent shall be publicly posted within a reasonable time after the decision to recommend award to a bidder for a purchase contract.

A notice of protest must be submitted in writing to the Director of Financial Services by 4:30 p.m., local time, no more than three (3) business days after the posting of the intent to award. The written protest must include the bid contract number and a clear and complete statement of the basis for the protest. The protest must state the facts and refer to the specific portion of the documents or the specific statutes that forms the basis for the protest. The protest must include the name, address, and telephone number of the person representing the protesting party and the specific requested relief or remedies sought by the protestor. The protest must be signed and submitted under penalty of perjury under the laws of the State of California. The party filing the protest must concurrently transmit a copy of the protest to the bidder deemed to be the apparent low bidder.

The party filing the protest must have actually submitted a responsive bid for the same bid contract being protested. A subcontractor or supplier of a partying filing a bid may not submit a bid protest.

The written bid protest shall be accompanied by a non-refundable bid protest fee of \$500.00 in the form of a certified cashier's check made payable to "Placer County Water Agency" to reimburse a portion of the Agency's costs in reviewing and investigating the protest. Any untimely protest or protest submitted without a requisite bid protest fee will be returned to the protestor without further action.

A formal written protest is considered filed with the Agency when it is received by the Department of Financial Services by the time specified above. Accordingly, any protest received by the Department of Financial Services after 4:30 p.m., local time, on the third business day is considered untimely. Failure to file a written notice of protest within the time period specified shall result in relinquishment of all rights to protest by the potential vendor or abrogation of any further bid protest proceedings.

These procedures shall be the sole remedy for challenging an award of bid. Bidders are prohibited for attempts to influence, persuade or promote through any other channels or means. Such attempts may be cause of suspension of future bid consideration.

Nothing in this section shall be construed as a waiver of the Agency Board's right to reject all bids. The Agency reserves the right to waive any bid irregularities not affecting the amount of the bid, except where such waiver would give the low bidder an advantage or benefit not allowed other bidders.

INITIAL PROTEST REVIEW

The Director of Financial Services may attempt to settle or resolve protests, prior to the Board meeting, in which the bid is scheduled for award. The Director of Financial Services shall render a written decision and recommend to the Board of Directors with respect to any bid protest over a "purchase".

The Director of Financial Services may discuss with Agency Counsel any protest before issuing a written decision.

The written decision by the Director of Financial Services may be appealed to the Board of Directors.

APPEAL

Any person aggrieved by the decision of the Director of Financial Services may appeal to the Board of Directors. Said appeal shall be in writing and shall state with specificity the grounds therefor and also the action requested of the Board of Directors. The Clerk of the Board of Directors shall agendize the appeal for hearing by the Board of Directors at their next regularly scheduled meeting.

A final decision under this section shall be conclusive and shall represent the position of the Agency.

STAY OF PROCUREMENT ACTION DURING A PROTEST

In the event of a timely appeal before the Board of Directors under this Section, the Agency shall not proceed further with the solicitation or with the award of the contract until the appeal is resolved by the Board of Directors unless the Director of Financial Services, in consultation with the procuring Director Department and Agency Counsel, makes a written determination that the award of the contract without delay is necessary to protect a substantial interest of the Agency.