

CITY OF EUREKA

Category: PUBLIC SERVICES

POLICIES & PROCEDURES

Subject: BID PROTEST PROCEDURE

Date Adopted: March 15, 2011

File Number 6.20

### POLICY OBJECTIVE

To establish a bid protest procedure for competitive bidding of public projects.

### ASSIGNED RESPONSIBILITY

City Manager, City Attorney, All Department Heads

### APPLICABILITY

Applicable to all public project bid solicitations and awards over \$15,000.

### PROCEDURES

Any City of Eureka public project for which competitive bidding is required by law may be the subject of a bid protest. The term “public project” as used herein shall have the same meaning as that term is defined in Section 20161 of the Public Contract Code.

1.  **GROUNDS FOR PROTEST:** Grounds for bid protests shall be limited to computation errors, or violations of local, state, or federal law relating to the determination of low bidder.
2.  **STANDING TO PROTEST:** Any person or entity that submitted a bid on a City of Eureka public project may file a bid protest. An interested trade association or industry group may file a bid protest under this policy, provided the interested trade association or industry group identifies in its bid protest the basis of its interest in the public project bid being protested.
3.  **CONTENT OF BID PROTEST:** Bid protests must:
  - a. Include the name, mailing address, electronic mail (e-mail) address, telephone and facsimile numbers of the protestor;
  - b. Be submitted in writing, and may be delivered either by mail, facsimile, e-mail, or hand delivery;
  - c. Be signed by the person submitting the protest;
  - d. Identify the project bid being protested by name and number;
  - e. Set forth a detailed statement of the factual and legal grounds for the protest;
  - f. Set forth all information necessary to establish that the protestor has the standing to protest;
  - g. Include copies of all documents forming the basis of the protest;
  - h. Specifically request a ruling by the City; and
  - i. State the form of relief requested.
4.  **FILING BID PROTEST:** Bid protests must be filed at the office of (a) the project manager or his/her designee, or (b) the contracting officer for the City of Eureka public project being protested at the City of Eureka Engineering OR Public Works

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Department, Eureka City Hall third floor, 531 K Street, Eureka, CA 95501. No individual or entity may submit more than one bid protest for a project.

5. **TIME FOR BID PROTEST:** Bid protests must be filed by 5:00 p.m. of the fifth (5<sup>th</sup>) business day either (a) after the posting of the bid results, or (b) after receiving a "Notice of Intended Decision" from the City with respect to the proposed award of the bid. Bid protests received after this time and date will be rejected as untimely.
6. **COPY OF BID PROTEST TO LOW BIDDER:** At the same date and time as is required for the bid protest, the party filing the bid protest shall transmit a complete copy of the bid protest to the low bidder identified in the posting of the bid results.
7. **BID PROTEST EVALUATION:** The City's evaluation of bid protests will be made by the project manager or his/her designee or by the contracting officer, in consultation with the City attorney.
8. **DECISION ON BID PROTEST:** After evaluating the bid protest, the project manager or his/her designee or the contracting officer shall issue a written pending decision sustaining or denying the bid protest. The written pending decision on the bid protest shall contain a statement of the reasons for sustaining or denying the bid protest.
9. **TIME FOR CITY DECISION REGARDING BID PROTEST:** The City's pending decision regarding bid protests shall be in writing and shall be communicated to the protesting bidder/s via U.S. Mail by 5:00 p.m. of the fifth (5<sup>th</sup>) business day after the deadline for submittal of bid protests.
10. **AWARD OF PROJECT CONTRACT:** The City Council shall consider the staff recommendation on the Bid Protest, and shall make a final decision to either accept the protest and award to the next lowest responsible bidder, or reject the protest and award to the lowest responsible bidder.
11. Nothing in this policy shall be construed as a waiver of the City Council's right to reject all bids.
12. The City Council's decision shall be final.