

Purchasing

PROTESTS

Protest of Competitive Solicitations/Bids.

- A. Applicability. This section applies to procurement of materials, and nonprofessional and professional services. Protests shall be handled in accordance with the procedures listed herein.
- B. All communication with a protesting party shall be coordinated with the Contracting Services Unit Manager while the protest is still under consideration, unless an Appeals Board designates another Metropolitan representative.
- C. Protest of Solicitation.
 - 1. A respondent may file a protest to the Contracting Services Manager, no later than four (4) working days prior to the due date of the solicitation in the event that the respondent believes the solicitation is:
 - a) Unfairly restrictive
 - b) Contains conflicting or ambiguous provisions
 - c) Would result in a contract that would be commercially impossible to perform.
 - 2. The protest must be made in writing (a letter, e-mail or facsimile) and must contain the following information:
 - a) Name, address and phone number of the protestor
 - b) The title and solicitation number of the solicitation being protested
 - c) A detailed statement citing the provisions being protested including the reasons for the protest.
 - 3. Late protests shall not be considered.
 - 4. The Contracting Services Manager or his/her representative shall respond after an investigation of the facts citing any actions that will nor will not be taken regarding the solicitation.
- D. Protest of bid awards.
 - 1. Protest of contract awards shall be made immediately, but in no case later than five (5) working days after the award information has been posted on the MWD web site at <http://www.mwdh2o.com>. The protest must be made in writing and include the following information:
 - a) Name, address and phone number of the protestor
 - b) The title and solicitation number of the solicitation being protested
 - c) A detailed statement of the legal and/or factual grounds of the protest
 - d) A statement explaining how the firm protesting would have received the award had the situation not occurred
 - e) The form of relief requested.
 - 2. Legitimate protests of awards are limited to situations where:
 - a) There has been a miscalculation by Metropolitan in determining a submitted price

Purchasing

- b) There has been an identified irregularity in the evaluation process as outlined in the solicitation
- c) The selection was not in accordance with applicable laws, the Administrative Code, or established Metropolitan procedure

Protest Appeals Board

- A. A firm wishing to appeal the protest decision of the Contracting Services Manager may request a hearing of the Protest Appeals Board. The appeal must be filed no later than ten (10) working days from having received the decision of the Contracting Services Manager. The appeal must in the form of a letter to the Chief Operating Officer stating the reasons for the appeal.
- B. Upon receipt of the letter, the Chief Operating Officer may empanel the Protest Appeals Board if he/she determines that a hearing on the protest is appropriate.
- C. The board shall consist of three members. There shall be representative from the Legal Department, The Internal Auditor or a designated representative, and the Chief Operating Officer or a designated representative.
- D. If the protester fails to appear and participate in the hearing, the Protest Appeals Board may summarily rule upon the protest based upon information then available.
- E. Hearing Protocol. The hearing protocol shall be promulgated by the Protest Appeals Board and provided to the protester not later than (7) calendar days prior to the scheduled appeal hearing.
- F. Protest Decision. After the hearing, the Protest Appeals Board shall render a decision in writing to the protestor and the Contracting Services Manager.
- G. Remedies. If the protest is sustained in whole or part, an appropriate remedy shall be implemented.
- H. If the protester wishes to appeal the decision of the Protest Appeals Board, the protester must do so in writing to the METROPOLITAN Board of Directors within ten (10) working days of receiving the decision.