



PP-04-09 BID PROTESTS AND APPEALS

I. OVERVIEW

It is the policy of the District to afford due process to suppliers that have participated in a competitive procurement process and believe they have not been accorded fair treatment or that the selection process was materially flawed.

This process extends to suppliers whose bids have been rejected as “non-responsive” to a solicitation or which have been declared “non-responsible” and ineligible for award. At the same time, it is not the District’s intent to unnecessarily delay the award of contracts resulting from legitimate processes or provide a forum for bidders interested solely in denying business to their competitors.

Accordingly, this section establishes the rules and procedures for vendors to protest the recommended awards resulting from requests for quotes, invitations for bids or requests for proposals. Different rules and procedures are applied to purchases below and above the statutory bid threshold.

Since most purchases below the statutory bid threshold are delegated to the colleges and purchasing regions and are transacted informally (e.g. orally, via email or fax, through catalog pricing), with the objective of expediting the transactions, the protest process is correspondingly abbreviated and college-based. Conversely, because purchases equal to or exceeding the bid threshold are reserved to the District Contracts and Purchasing Section and are transacted in a formal manner, with resulting contracts requiring prior approval by the Board of Trustees, the protest process is equally formal and administered by the District Business Services Office.

This section does not cover the process for bid protests of public works projects under the California Uniform Cost Accounting Act (CUPCAA). This process may be found in the Facilities Section or in Board Rule 7103.6.

II. PROCESS

A. Purchases below statutory bid threshold

1. Filing of protest

A supplier that has submitted a quote or proposal to a college for less than the statutory bid threshold, and wishes to lodge a protest



against the award to another supplier (hereafter in this section, "Protestor"), supplier must comply with the following:

- (a) Submit such protest in writing to the Vice President of Administrative Services of the college (hereafter in this section, "Vice President");
- (b) The protest must be submitted within two (2) business days of notification of the proposed award; and
- (c) The protest letter must state the basis for the protest and the remedy sought.

2. Disposition of protest

Upon receipt of a protest, the Vice President will:

- (a) Suspend award pending disposition of the protest;
- (b) Notify the supplier recommended for award (hereafter in this section, "Awardee") about the protest; and
- (c) Invite the Awardee to submit, within two (2) business days of notice of the bid protest, any information in support of the award.

If the Vice President upholds the protest, this decision and its basis will be conveyed in writing to the Protestor, the Awardee, and any other supplier that submitted a quote or proposal. The communication will also declare the college's intention to: (a) award to another supplier, or (b) cancel the solicitation and re-solicit quotes or proposals, or (c) cancel the solicitation and not re-solicit for at least six (6) months.

If the Vice President denies the protest, this decision and its basis will be conveyed in writing to the Protestor and all other suppliers that submitted a quote or proposal. In denying the protest, the Vice President may declare the college's intention to: (a) award to the Awardee; or (b) cancel the solicitation and re-solicit quotes or proposals, or (c) cancel the solicitation and not re-solicit for at least six (6) months.

Whether upholding or denying the protest, if the Vice President elects to cancel the solicitation and not re-solicit for at least six months, then the decision on the protest and the action will be deemed final and there will be no further avenue of appeal for any party.



3. Appeal

Except where the Vice President's decision is deemed final as stipulated above, any supplier notified of the Vice President's decision on a protest must, within two (2) business days of notice, appeal the decision in writing to the President of the college and include in the appeal to the President the same information as required for the original protest. The disposition of the appeal will be handled in the same manner as the protest.

The President's decision on the appeal will be conveyed to all parties in writing. The President's decision in the matter will be final and there will be no further avenue of appeal for any party.

4. District Office transactions

If the protested transaction is for the District Office, the initial protest described above will be directed to the Director of Business Services and the appeal will be to the Deputy Chancellor, whose decision in the matter will be final. Such decision will be communicated to all parties in writing within a reasonable time period after the decision is made.

5. Notice of protest procedures

The procedure described above will be provided upon request to any supplier that requests information on how to protest an award below the statutory bid threshold. The procedure for supplier protest will be made available on the LACCD website.

B. Purchases at or above statutory bid threshold

1. Filing of protest

A supplier that has submitted a sealed bid or proposal to the District under a solicitation estimated to equal or exceed the statutory bid threshold, and wishes to lodge a protest against the award to another bidder/proposer, must comply with the following:

- (a)** Submit such protest in writing to the Director of Business Services at the District Office (hereafter in this section, "Director");
- (b)** Protests must be submitted within five (5) business days of notification of the proposed award; and



- (c) The protest letter must state the basis for the protest and the remedy sought.

2. Disposition of protest

Upon receipt of a protest, the Director will:

- (a) Suspend award pending disposition of the protest;
- (b) Notify the Awardee about the protest; and
- (c) Invite the Awardee to submit, within two (2) business days of notice, any information in support of the award.

If the Director upholds the protest, this decision and its basis will be conveyed in writing to the Protestor, the original Awardee, and any other supplier that submitted a bid or proposal. The communication will also declare the District's intention to: (a) award to another bidder/proposer, or (b) cancel the solicitation and re-solicit bids or proposals, or (c) cancel the solicitation and not re-solicit for at least six (6) months.

If the Director denies the protest, this decision and its basis will be conveyed in writing to the Protestor and all other suppliers that submitted a bid or proposal. In denying the protest, the Director may declare the District's intention to: (a) award to the Awardee; or (b) cancel the solicitation and re-solicit bids or proposals, or (c) cancel the solicitation and not re-solicit for at least six (6) months.

Whether upholding or denying the protest, if the Director elects to cancel the solicitation and not re-solicit for at least six months, then the decision on the protest and the action will be deemed final and there will be no further avenue of appeal for any party.

2. First appeal

Except where the Director's decision is deemed final as stated above, any supplier so notified of the Director's decision may:

- (a) Submit within five (5) business days of notice of the Director's decision, an appeal in writing to the Chancellor, who may elect to delegate disposition of the appeal to the Deputy Chancellor.
- (b) Appeal to the Chancellor or Deputy Chancellor (collectively, hereafter in this section, "Chancellor") and such an appeal must include the same information as required for the original protest. Disposition of the appeal will be handled in the same manner as the protest.



The Chancellor's decision on the appeal will be conveyed to all bidders/proposers in writing. Whether upholding or denying the appeal, if the Chancellor elects to cancel the solicitation and not re-solicit bids or proposals for at least six (6) months, then the decision on the appeal and the action will be deemed final and there will be no further avenue of appeal for any party.

3. Final appeal; public hearing

Except where the Chancellor's decision is deemed final as stipulated above, any bidder/proposer so notified of the Chancellor's decision may:

- (a)** Submit within five (5) business days of notice of the Chancellor's decision, an appeal in writing to the Board of Trustees (hereafter in this section, "Board") and request a public hearing on the appeal at a regularly scheduled Board meeting before action is taken on the recommended award.
- (b)** Appeal to the Board and such an appeal must include the same information as required in the Chancellor's appeal.

Upon receipt of such appeal, the Board will defer award (if one is recommended) until after disposition of the appeal. The Board will also notify the Awardee about the appeal and invite that party to (a) submit information in support of the award, and (b) appear at the public hearing if one is requested. Both the public hearing on the appeal and the award of contract, if one is recommended, may appear on the same public board agenda. Notice of the action taken by the Board will be conveyed to all bidders/proposers within a reasonable time period.

If an appeal is filed but no public hearing is requested, or if the appellant fails to appear for a requested public hearing, the Board may rule summarily on the appeal or postpone a decision until a future date. Notification of the action taken or decision made by the Board will be provided to all bidders/proposers within a reasonable time period.

If a public hearing is held, the Board will take testimony from the appellant and others that wish to speak on the matter before rendering a decision on the appeal. The Board, in its discretion, may limit the time allotted to testimony or the type of information that may be presented.

If the Board denies the appeal, it may proceed to award the contract if one is recommended on the Board agenda. If the Board



upholds the appeal, then the Board may: (a) declare its intent to award to another bidder/proposer and direct staff to place a recommendation for said award on the next available Board agenda, or (b) cancel the solicitation and order the re-solicitation of bids or proposals, or (c) cancel the solicitation and order that bids/proposals not be re-solicited for at least six (6) months. The Board's decision on the appeal will be final, with no avenue for further appeal, and will be conveyed to all bidders/proposers in writing. Notification of the Board's decision will be communicated to all bidders/proposers within a reasonable time period after the decision is made.

4. Notice of protest procedure

A true and accurate summary of the rules and procedures for filing a protest, as described in II.B.1 above, will be included in any invitation for bids or request for proposals for purchases at or above the statutory bid threshold. Thereafter, a copy of the rules and procedures governing appeals will be furnished to each Protestor as part of a response to the protest. The protest procedure will also be made available on the LACCD website.

5. Recordkeeping

File records containing documentation on supplier protests and appeals, including but not limited to correspondence and written decisions, shall be maintained by the Office of the Vice President of Administrative Services or in the Office of the Director of Business Services respective to the dollar threshold of protest initiation.

Files should be kept in a chronological, complete and orderly manner as these documents constitute the administrative record for the process afforded to a specific supplier by the District in a particular case and could be exposed in potential litigation with a supplier or subject to a California Public Records Act request.

III. LEGAL AUTHORITY AND CITATIONS

Public Contract Code sections 10290, 20650-20660, 22030-22045

Education Code sections 81550 et seq, 81641, 81651

Government Code section 53060



**LOS ANGELES COMMUNITY COLLEGE
DISTRICT
BUSINESS OPERATIONS POLICY AND
PROCEDURES**

*Date Updated: August 19, 2008
Supersedes: Month Day, Year
Original Issue Date: June 17, 2008*

Board Rules 7100, 7100.16 and 7102.16, 7103.6

04-02 – Types of Transactions

04-06 - Large Purchases

Government Code sections 6250-6270