

APPENDIX H: BID/PROPOSAL PROTEST PROCEDURES

SCOPE OF PROTEST PROCEDURE

This section specifies procedures for interested parties to protest the following YoloTD staff actions:

- A. A written notice to a bidder or proposer that it has been deemed non-responsive or not responsible.
- B. A written recommendation to the Board or Executive Director to award a contract to a particular bidder or proposer.

Nothing in this policy will preclude or otherwise restrict the protest procedure specified in FTA's regulations on disadvantaged business enterprise.

EFFECT OF PROTEST ON CONTRACT AWARD

When a protest has been properly filed prior to Contract award, the Board or Executive Director will not award the Contract prior to issuance of a final decision on the protest. However, YoloTD reserves the right, in its sole discretion, to award the Contract and to issue a notice to proceed notwithstanding any pending or continuing challenge to YoloTD's final decision on the protest.

RELEASE OF PROTEST INFORMATION

Materials submitted as a part of the protest resolution process will be available to the public except to the extent that the withholding of information is permitted or required by law or regulation; and

MAINTENANCE OF PROTEST RECORDS

The Executive Director, or their designee, will maintain a written record of each protest. These records will be retained for at least 3 years from the date each protest is resolved.

WHO MAY FILE A PROTEST

Protests may be filed only by interested parties. Interested parties are defined as actual or prospective bidders or proposers for an YoloTD Contract. Submission of a bid/proposal will be deemed a waiver of any protest to any provision of the solicitation documents that is not the subject of the protest.

TIME FOR FILING A PROTEST

- A. Protests of a determination that a bidder or proposer is non-responsive or not responsible must be received by YoloTD no later than 10 working days from the date of the letter providing notice of the determination.
- B. Protests of a staff recommendation to the Executive Director or the Board pertaining to the award of a Contract must be received by YoloTD no later than 10 working days from the date of the letter providing notice of the staff recommendation.

FORM FOR FILING A PROTEST

Protests must be addressed to the YoloTD Executive Director, 350 Industrial Way, Woodland, CA 95776 with an additional copy sent via email to abernstein@yctd.org. Protests must be in writing and contain a statement of the ground(s) for protest. At least 3 copies of the protest and supporting documentation must be submitted by the protestor in the time and manner specified in this Article. The Executive Director, or his/her designee, will provide notice, by telephone or by letter, to all bidders or proposers known to YoloTD for the procurement that is the subject of the protest. Such notice will state that a protest has been filed with YoloTD and identify the name of the protestor. The notice must be given not more than 5 working days after receipt of a properly-filed protest. The notice will state that interested parties will receive further information relative to the protest only if they submit a written request to the Executive Director.

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The bid protest must contain a complete statement of the basis for the protest and all supporting documentation. Material submitted after the Protest Deadline will not be considered. The protest must refer to the specific portion or portions of the solicitation documents or bids/proposals upon which the protest is based. The protest must include the name, address, email address, and telephone number of the person representing the protesting bidder if different from the protesting bidder.

EXECUTIVE DIRECTOR'S FINAL DECISION

Not more than 30 days after receipt of a properly filed protest,, the Executive Director will distribute to the protestor and all interested parties requesting such information, a written decision. The Executive Director's written decision is final. Upon issuance of the Executive Director's decision, any interested party may appeal to a court of competent jurisdiction, if such forum exists, or file a protest directly with FTA if any resulting contract is funded by FTA. A protest to FTA must be filed in accordance with FTA Circular 4220.1G, available from YoloTD's Contract Officer.

RIGHT TO REJECT ALL BIDS/PROPOSALS

YoloTD retains the discretion to reject all bids/proposals or to make no decision whatsoever.

EXCLUSIVE REMEDY

The procedure and time limits set forth in herein regarding protest are mandatory and are the bidder/proposer's sole and exclusive remedy in the event of protest. A bidder/protestor's failure to comply with these procedures will constitute a waiver of any right to further pursue a bid/proposal protest, including initiation of legal proceedings.