

RESOLUTION NO. 99-003

ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO  
ON DATE OF FEB 02 1999

**BID AND PROPOSAL PROTEST POLICY AND  
POST PROJECT CONTRACTOR REVIEW POLICY**

BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY OF  
SACRAMENTO:

Section 1: The Protest Policy attached as Attachment I to this resolution is  
adopted.

Section 2: The Post Project Contractor Review Policy attached as Attachment  
II to this resolution is adopted.

Section 3: The Executive Director is authorized and directed to implement the  
Protest Policy and the Post Project Contractor review, effective immediately.

  
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SECRETARY

  
CHAIR

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ATTACHMENT I  
**BID AND PROPOSAL PROTEST POLICY**  
**ALL AGENCY PROCUREMENTS**

**NOTE:** For the purposes of this policy, the terms "bidder" and "proposer" shall be synonymous.

**A. Notice of Award**

The written "Notice of Intent to Award" shall constitute the Agency's decision to award the contract. The "Notice of Intent to Award" and any written decision denying a protest shall be sent to all bidders.

**B. Right to Protest**

Any bidder who wants to protest the "Notice of Intent to Award" shall have ten (10) calendar days after the date the notice is issued to submit to the Agency a written protest. The written statement shall be full and complete, specifying in detail the grounds of the protest and the facts supporting the protest or it will not be considered. Any bidder who has a legitimate protest must claim to be eligible for award of the contract as being the **lowest responsible bidder**.

The Agency shall not entertain any protest submitted after the time period established in this Policy.

**C. Affect of Protest of Award of Contract on Opening of Bids**

When a protest has been made, the Agency shall not award the contract before deciding the outcome of a properly filed protest. If the protest has been properly made before the opening of bids, then bids shall not be opened before a decision has been made on the protest.

**D. Review and Decision**

The protest(s) will be reviewed by a committee consisting of the following: the Design & Construction Unit Manager or designee, the Procurement Services Unit Manager or designee, and the Compliance Officer. The review will be completed within ten (10) calendar days after receipt of protest(s). A settlement or decision shall be confirmed in writing and mailed by first class mail to all bidders. The contract will be awarded to the prevailing bidder. No further protest(s) shall be considered.

**E. Appeal of Decision**

The decision by the Review Committee is final and shall not be appealed within the Agency. Such decision may, however, be subject to Administrative Mandamus (California Code of Civil Procedure 1094.5).

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**F. Public Nature of Protest Information**

Materials submitted as a part of the protest resolution process will be available to the public except to the extent that:

- (1) The withholding of information is permitted or required by law or regulation; or
- (2) Subject to any applicable law or regulation, the information is designated proprietary by the person submitting the information to the Agency. If the person submitting material to the Agency indicates that the material contains proprietary material which should be withheld, a statement advising of this fact shall be affixed to the front page of the material submitted. And, the alleged proprietary information must be specifically identified in the body of the materials wherever it appears.

**G. Maintenance of Protest Records**

All written statements, pleadings, briefs, correspondence and memoranda, whether sent or received by the Agency or its Commission shall be maintained by the Agency Clerk (or designee) for a period of at least three (3) years from the date of each protest is resolved.

**H. Inclusion of Protest Procedures in Bid Solicitations**

Each bid solicitation will inform the prospective bidders of this Protest Policy with the statement that a copy of the Protest Policy will be available upon request.

All protests shall be handled in this same manner: protests to the bid itself must be made within ten (10) days of the request for bid (or solicitations) and all protests to the "intent to award" must be made with in ten (10) days of the date on the Intent to Award letter.

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**ATTACHMENT II**  
**POST PROJECT CONTRACTOR REVIEW POLICY AND PROCEDURE**  
**FOR CONSTRUCTION PROJECTS**

**POLICY:**

Upon substantial contract completion, the Agency will evaluate a contractor's performance to determine the contractor's ability to perform future Agency contracts. Potential contractors shall be informed of the procedure through bidding documents, pre-bid conferences and pre-job conferences.

**PROCEDURE:**

Upon substantial completion of the project, the Compliance Officer and the Contracting Officer (or designee) will complete a Post-Project Evaluation Checklist (Checklist). The Checklist will be used to prepare a Summary Report. The Checklist and Summary Report will be disclosed to the contractor and the Procurement Officer in order to document the contractor's performance and suitability for future contract awards.

The Checklist is a system for measuring the ability of the contractor to fulfill the terms of the contract and comply with all applicable statutes. Demerits are given on an all or none basis. Each demerit shall be explained in detail in the Summary Report. Any Checklist totaling five or more points is considered a failing evaluation and will be forwarded to the Program Manager of the requesting department for further review. The Program Manager will complete the Decision Sheet to assess the infractions and explain what action will be taken, if any, for each item cited on the Checklist.

A copy of the Checklist, Summary Report and Decision Sheet shall be placed in the project file. The original, signed document shall be sent to the Procurement Services office for use in future bid evaluations.

The contractor shall be sent a copy of the Checklist and Summary Report for every project. Failing evaluations shall be sent by registered U.S. mail, return receipt requested, with a cover letter stating that the contractor is being placed on probationary status and the terms of such probation. The probationary period will last for one year or until the contractor successfully completes a project, whichever is longer. The Contractor may appeal Agency findings by submitting a written request for a hearing, within ten (10) calendar days of receipt of the notice, to the Procurement Services Office. The request shall clearly state the grounds for appeal. Facsimile requests will not be accepted.

If a hearing is requested, the Procurement Services Office shall convene a panel composed of the Procurement Officer, Compliance Officer and a representative of the Requesting Department to hear the appeal and render a decision within ten (10) calendar days. The probationary period, if confirmed, shall not commence until the appeal is complete.

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Contractors on probation may continue to bid Agency work with the stipulation that past Checklists and Summary Reports will be used when evaluating a contractor's ability to perform.

If a contractor on probation is awarded a contract with the Agency, the Procurement Officer shall issue a letter along with the Notice of Award, stating the terms of probation. If a contractor receives a second failing evaluation, the Procurement Officer shall issue a written Notice of Suspension to the contractor suspending them from bidding Agency work for a period of one year. The letter shall state that, during the suspension, any bid received from a contracting entity in which a suspended contractor is a principal shall be rejected as if unopened. The contractor may appeal a suspension by requesting a hearing, in writing, via U.S. registered mail within ten (10) calendar days of receipt of the notice of suspension. Such requests shall clearly state the grounds for the appeal. The same hearing process shall be followed as in the first appeal.

Following the period of suspension, contractors may resume bidding on a probationary basis. The probationary period will last for one year or until the contractor successfully completes a project, whichever is longer. Past Evaluation Checklists and Report Evaluations will be used when evaluating a contractor's ability to perform.

When a contractor is selected to perform Agency work following a suspension, the Procurement Officer shall issue a letter to accompany the Notice of Award stating that, if a failing Report Evaluation is received for the project about to be awarded, a three year suspension of the contractor's eligibility to bid agency work will be imposed. Repeated failing evaluations will result in successive three year suspensions as set forth herein.

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