


(R-2000-1383)

RESOLUTION NUMBER R- 293208

ADOPTED ON MAY 30 2000

BE IT RESOLVED, by the Council of The City of San Diego, that the City Manager be and he is hereby authorized and empowered to adopt, for and on behalf of said City, a revised Council Policy 000-29, Contract Award Protests by Non-Selected Bidders/Proposers, under the terms and conditions set forth in the revised Council Policy 000-29 on file in the office of the City Clerk as Document No. RR- 293208.

APPROVED: CASEY GWINN, City Attorney

By 
Jacqueline Mittelstadt,
Deputy City Attorney

JM:km
5/12/00
Aud.Cert:N/A
Or.Dept:Eng&Cap Projects
R-2000-1383
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COUNCIL POLICY

SUBJECT

CONTRACT AWARD PROTESTS BY NON-SELECTED
BIDDERS/PROPOSERS

POLICY
NUMBER

000-29

EFFECTIVE
DATE**BACKGROUND:**

The City's primary objective when awarding Contracts is to use fair and unbiased selection procedures. Specifically, for Public Works Contracts, the procedure should ensure selection of the lowest responsible and reliable Bidder. For Purchasing and Consultant Contracts, the procedure should ensure selection of the Bidder or Proposer whose qualifications and prices best serve the City's interests.

PURPOSE:

This policy is intended to establish standardized procedures to resolve Contract Recommendation protests by non-selected Bidders or Proposers.

DEFINITIONS

Bidder - A vendor, contractor, consultant or service provider who submits a bid in response to Requests for Bids [RFB] and whose bid complies in all respects with the criteria contained in the RFB.

City Manager - The City Manager, the Assistant City Manager, Deputy City Manager, or any public officer designated by the City Manager.

Consultant - Includes providers of expert or professional services, including Architectural and Engineering [A & E services] and non-A & E services, and excludes providers of Services.

Contract - Any Purchasing, Public Works or Consultant agreement to which the City is a party.

Contract Recommendation - The City's recommendation for selection of a Bidder or Proposer to be awarded a Contract.

Contract Protest Review Board [Board] - A panel assembled as needed to review evidence presented by all Interested Parties to determine whether the City recommended awarding a Contract in accordance with all applicable laws and guidelines.

Contract for Goods - An agreement between the City and another party in which the City is the purchaser of articles, commodities, materials, supplies, equipment, or insurance.

Contract for Services - An agreement between the City and another party in which the City is the purchaser of Services, excluding Consultant services. Maintenance contracts are Contracts for Services.

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This policy applies to all Contracts procured by RFB or RFP, except that it does not apply to (1) contracts with other public agencies; (2) contracts awarded by the City Council on a non-competitive basis; (3) contracts involving a transfer of an interest in real property including but not limited to a lease or a contract for sale; (4) contracts whose award is prescribed by a funding source, such as the state or federal government; (5) Purchasing Contracts for an expenditure less than \$50,000; and (6) Consultant Contracts for an expenditure less than \$25,000.

PROCEDURE

1. **Submission of Protest:** All protests shall be submitted in writing no later than ten calendar days after the selected Bidder or Proposer is announced. Failure to submit a timely protest to the City shall bar consideration of a protest. Protests shall be submitted to the City department where bids or proposals were submitted.
2. **Grounds for Protest:** Protests shall clearly state in detail the reasons for the protest and all supporting information. Protests shall be limited to the following: (1) The City failed to follow procedures and requirements specified in the RFB or RFP, including any amendments, (2) City employees or Evaluation Team members engaged in misconduct or impropriety, (3) the Evaluation Team recommended that the non-selected Bidder or Proposer be found not responsible to perform the Contract.
3. **City Manager Reviews Protest:** The City Manager will review the protest to determine whether it conforms with the requirements of Section 2. If the City Manager determines that the protest fails to satisfy the requirements of Section 2, the City Manager will reject the protest and notify the protesting Bidder or Proposer that no hearing will be held. If the City Manager finds that the protest satisfies the requirements of Section 2, the City Manager will forward the protest to either the Board or the City Council in accordance with the following:
 - (A) Protests involving a Consultant Contract for an expenditure of \$25,000 or more, a Purchasing Contract for an expenditure between \$50,000 and \$1 million inclusive, or a Public Works Contract which does not require City Council Confirmation for award, will be forwarded to the Board as described in Section 4.
 - (B) Protests involving a Purchasing Contract for an expenditure exceeding \$1 million, or a Public Works Contract which requires Council confirmation for award, will be forwarded to the City Council to be heard when the Contract Recommendation is reviewed by the City Council.

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department will forward the appeal to the City Council. Failure to submit a timely appeal shall bar consideration of an appeal.

6. Effects on Contracts - Failure of a City employee or department to comply with this Council Policy shall in no way affect the validity of any Contract entered into between the successful Bidder or Proposer and the City.

HISTORY:

Adopted by Resolution