

SOUND TRANSIT PROCUREMENT PROTEST PROCEDURES

1 PURPOSE

The purpose of a protest procedure is to allow any actual or prospective proposer, bidder, offeror, or contractor ("Interested Party") who is aggrieved in connection with a solicitation, evaluation, or award of a contract, an opportunity to state their dispute.

Because Sound Transit's response to a protest establishes a precedent, it is important that Sound Transit's responses to protests be consistent and takes into consideration the best interests of Sound Transit as a whole on a long-term basis. Protests are only permissible for contract award amounts exceeding \$100,000.

2 PROCEDURE

Protest must be submitted no later than seven (7) business days prior to the date and time designated for submittal of bids or proposals or within five (5) business days after the allegedly aggrieved person or party is notified of contract award.

A formal protest must be in writing and shall contain the following:

- the procurement title and/or number under which the protest is made;
- the name and address of the allegedly aggrieved party;
- a detailed description of the specific grounds for the protest and all supporting documentation;
- the specific ruling or relief requested; and
- The written protest shall be addressed to: Contracts Officer, Sound Transit, 401 S. Jackson Street, Seattle, Washington 98104-2826.

Response to Protest:

- Upon receipt of a timely written protest, the Contracts Officer, or his/her designee, will consider the protest in accordance with established procedures and promptly issue a written decision stating the reasons for the action taken and informing the allegedly aggrieved person of his/her right to appeal the decision to the Chief Executive Officer.
- The decision made by the Contracts Officer, or his/her designee, shall be final and conclusive unless appealed in writing to the Chief Executive Officer within five (5) business days of receipt by the Protester of the Contracts Officer's decision. The Chief Executive Officer, or his/her designee, will consider the appeal and promptly issue a written decision, which shall be final and conclusive.
- A Protester may not commence litigation prior to exhausting all administrative remedies. Failure to exhaust all administrative remedies shall constitute an absolute waiver of the Protester's right, if any, to commence litigation.
- Failure to comply with these protests and appeal requirements will render a protest or an appeal untimely or inadequate and may result in rejection thereof by Sound Transit.
- After the exhaustion of all administrative remedies, the Protester shall have ten (10) calendar days in which to commence litigation. Failure to commence litigation within this limitation shall constitute an absolute waiver of the Protester's right, if any, to do so. Sound

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Transit may award and execute the Contract during this ten day period in accordance with State law.

Protest at the Federal Transit Administration (FTA) level:

Protests made to the FTA will be limited to Sound Transit's failure to have or follow its protest procedures, Sound Transit's failure to review a complaint or protest, or violations of Federal law or regulation. Any protest to the FTA must be made in accordance with the following guidelines:

- A protest must be filed with the FTA no later than five (5) business days after the protester learns or should have learned of an adverse decision by Sound Transit or other basis of appeal to FTA;
- A protest to FTA must be filed in accordance with FTA Circular 4220.1F, Chapter VII, as amended.
- The Contract Administrator shall submit to the FTA Regional Office a copy of all protests and Sound Transit's response.