

BROCKTON AREA TRANSIT AUTHORITY PROCUREMENT PROTEST PROCEDURES

The following Procurement Protest Procedures are established pursuant to the requirements set forth in FTA Circular 4220.1F, THIRD PARTY CONTRACTING GUIDANCE, 2 CFR 200.318(k) and applicable Federal, state and local laws and regulations. These procedures apply to the settlement of all contractual and administrative issues arising out of BAT procurements.

A. PRIOR TO OFFER OPENING

1. Protests concerning a procurement (by a prime contractor or an adversely affected subcontractor) must be in writing and received by BAT not less than seven (7) full days before the deadline for receipt of proposals or bids unless a different deadline is established in the procurement documents.

2. Upon receipt of a protest, the contract officer will determine if the offer opening should be postponed. If offer opening is postponed, BAT will notify all prime contractors and subcontractors who have been furnished a copy of the specifications that a protest has been filed and that offer opening is postponed until BAT has issued its decision. Appropriate addenda will be issued rescheduling the offer opening.

B. AFTER OFFER OPENING

1. Protests received after the deadline for receipt of proposals or bids will be considered only if it concerns an issue, procedure, or other matter that could not have been protested by an offeror or bidder prior to the deadline. The protest must be in writing and be received by BAT before execution of the resulting contract.

2. Upon receipt of the protest, the contract officer will immediately determine if the execution of the contract should be postponed. If it is postponed, BAT will notify all offerors or bidders that a protest has been filed and that execution of the contract is postponed until BAT has issued its decision.

3. A protest to BAT may be withdrawn at any time before BAT has issued its decision.

4. BAT's decision on a protest will be in writing and is final.

C. AFTER CONTRACT EXECUTION

Protests received after a contract is fully executed will not be accepted or considered.

D. APPEALS TO THE FEDERAL TRANSIT ADMINISTRATION

FTA'S involvement in bid protests is limited. The Uniform Guidance, as adopted by US DOT, no longer provides a direct appeal to FTA of a recipient's final decision on a bid protest. BAT is responsible, in accordance with good administrative practices and sound business judgment, for settlement of all contractual and administrative issues arising out of procurements. The Federal Transit Administration's role is limited to considering matters that are primarily a Federal concern.

E. NOTICE TO FTA OF BID PROTESTS

BAT will provide FTA with notice of bid protests and appeals related to solicitations or contracts in excess of \$500,000 as part of the quarterly milestone report as required by FTA Master Agreement (28), Section 16(w) and will promptly notify FTA General or Regional Counsel of significant current or prospective legal matters that may affect the Federal Government as required by Section 39, Disputes.

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