



# **MARIN TRANSIT**

## **BID PROTEST PROCEDURES**

Policy #:	PU-01
Subject:	Procurement
Effective Date:	5/16/2011
Revision Date:	6/27/2016

## **1. BACKGROUND**

The following procedures have been developed to provide the sole remedy for supplier protests that cannot be informally resolved.

The procedures and time limits set forth in this document are mandatory and are the interested party's sole and exclusive remedy in the event of a protest. The interested party's failure to comply with these procedures shall constitute a waiver of any right to further pursue the protest, including, but not limited to, filing a Government Code Claim or legal proceedings. An Interested party may not rely on a protest submitted by another interested party, but must timely pursue its own protest.

## **2. PROTEST PROCEDURES**

The procedures below apply to all Marin Transit procurements and conform to Federal Transit Administration (FTA) Circular 4220.1F. These procedures will be included or referenced in all solicitation documents for FTA funded projects. If they are referenced, the reference will include information on how a copy of the procedures may be acquired by any interested party. Marin Transit will disclose information regarding protests on FTA funded projects to FTA.

## **3. DEFINITIONS**

The following definitions apply to these procedures:

"Days" means working days, i.e., any day except Saturday, Sunday or Marin Transit holidays.

"Interested Party" Is an actual or prospective offeror whose direct economic interest would be affected by the award of a Contract or by the failure to award a Contract. (Interested parties do not include subcontractors or suppliers of an actual or prospective offeror.)

"Protest" Is a written objection or complaint by an interested party to the terms, conditions or form of a proposed procurement or the proposed or actual award of a contract.

"Protestor" Is an interested party that has properly filed a timely protest.

"Timely Filed Protest" Is a written document filed by a protestor that meets the requirements outlined in this procedure.

## **4. FILING AND PROCESSING OF PROTESTS**

### **4.1 Protest Content and Submission**

An interested party wishing to protest a matter involving a proposed procurement or contract award shall file with Marin Transit a written submission which must include at a minimum:

- Name, address and telephone number of the protestor
- Protestor's relationship to the procurement sufficient to establish that the protest is being filed by an interested party
- Identification of the proposed procurement or contract
- A complete statement of the basis for the protest, and all supporting documentation
- A reference to the specific portion of the solicitation document which forms the basis for the protest

All protests must be filed with:

General Manager  
 Marin Transit  
 711 Grand Ave. Suite 110  
 San Rafael, CA 94901

#### **4.2 Subject of the Protest, Timing and Process**

Upon timely receipt of a protest, Marin Transit will notify the protestor and may, where appropriate, request additional information from the protestor. The District may, at its discretion meet with the protestor to review the matters raised in the protest.

Decisions on all protests will include a response in detail to each substantive issue included in the protest submitted. Marin Transit's decision shall be final unless a timely request for reconsideration is filed pursuant to these provisions.

Marin Transit reserves its right to take any and all appropriate action, as solely determined by Marin Transit, regarding the solicitation and/or award of contract prior to resolution of, or upon or after the time of decision on any protest, including but not limited to rejection of all bids or responses.

- **Pre-Bid or Solicitation Protest - received prior to bid opening or proposal due date**

Any protest regarding the pre-bid or solicitation phase must be filed no later than five (5) days before the opening of bids (if bid) or the due date for submittals or proposals (if RFQ/P), as applicable. Any protest filed after that date which raises issues regarding the solicitation will not be considered.

Pre-bid and solicitation protests will be decided by the Deputy General Manager, or other General Manager designee, within 20 days of Marin Transit's receipt of the protest.

- **Award Protest - received after Marin Transit Notice of Award**

Any protest which (i) claims that one or more offerors on the Contract should be disqualified or rejected or any reason; (ii) contests a Marin County Transit District staff recommendation to award the Contract to a particular bidder; or (iii) contests a Marin County Transit District staff recommendation to disqualify or reject one or more offerors on the Contract must be filed with Marin Transit no later than 5:00 PM five (5) days after publication of the notice of award. Any protest filed after such date will not be considered. Award protests will be decided by the Deputy General Manager, or other General Manager designee, within 20 days of receipt of the protest by Marin Transit.

## **5. REQUESTS FOR RECONSIDERATION**

A protestor may request reconsideration of the Deputy Manager's (or designee) protest decision a protest decision only if information becomes available that was not previously known, or could have reasonably become known, or there has been an error of law or regulation.

A request for reconsideration must be submitted in writing to the Marin Transit within five (5) days of the date of issuance of the initial decision. The request must include a detailed explanation of the basis for reconsideration and remedy requested. The General Manager shall review the request for reconsideration and may determine that there is no basis for modifying the decision.

## **6. APPEAL TO THE FEDERAL TRANSPORTATION ADMINISTRATION (FTA)**

If the work or services to be procured under the Bid/Proposal is FTA funded, and all Marin Transit administrative remedies described above have been exhausted, a protestor may file an appeal with the FTA in accordance with FTA Circular 4220.1F. FTA will only entertain a protest that alleges the grantee failed to follow their protest procedures and which is filed in accordance with FTA Circular 4220.1F.

All appeals to the FTA must be submitted within five (5) working days after the date the protestor knew or should have known of the alleged Marin Transit violation.