

PROTESTED SOLICITATIONS AND AWARDS

LANTA BID/PROPOSAL PROTEST PROCEDURE

1. PURPOSE

- a. The policies and procedures governing the receipt and resolution of protests in connection with an Invitation for Bid (IFB) or Request for Proposal (RFP) are outlined below. This procedure is applicable to all IFBs or RFPs.

2. DEFINITIONS

- a. "Interested Party" means any bidders/proposers.
- b. "Days" means business days.
- c. "Filed" means the date of receipt by The Office of the Executive Director or his/her designee.
- d. "Federal/State Law or Regulation" means any valid requirement imposed by Federal, State, or other Statute or regulation.
- e. "Presumptive Contractor" means the bidder/proposer that is in line for award of the contract in the event that the protest is denied.
- f. "Protestant" is an Interested Party who is aggrieved in connection with the solicitation or award of a contract and who files a protest.

3. TYPES OF PROTESTS/ TIME LIMITS

- a. Pre-Bid/Proposal Protest is based upon alleged restrictive specifications or alleged improprieties in LANTA's procurement process. A Protestant must file a pre-bid/proposal protest no later than five (5) days prior to bid opening date by 4:30 p.m. Allentown, Pennsylvania prevailing time. The failure to file a timely pre-bid protest of specification contents is a waiver of any dispute of the bid contents.
- b. Pre-Award Protest is based upon alleged improprieties of a Bid/Proposal. A Protestant must file a pre-award protest no later than five (5) days, after the Protestant knows or should have known of the facts giving rise thereto, by 4:30 p.m. Allentown, Pennsylvania prevailing time.
- c. Post-Award Protest is based upon the award of a contract. A Protestant must file a post-award protest no later than five (5) days after the notification to the unsuccessful firms of LANTA's intent to award, or no later than five (5) days after an unsuccessful firm becomes aware of LANTA's intent to award a contract, whichever comes first, by 4:30 p.m. Allentown, Pennsylvania prevailing time.

4. CONTENTS OF PROTEST

- a. Protests must be in writing, and filed directly with the Office of the Executive Director at:
Executive Director
Lehigh and Northampton Transportation Authority
1060 Lehigh Street
Allentown, PA 18103
- b. and must contain the following information:
 - i. The name, address and telephone number of the Protestant; and
 - ii. Identity of the IFB or RFP (by number and description); and
 - iii. A detailed factual statement of the grounds for protest; and
 - iv. The desired relief, action or ruling.

5. ACTION BY LANTA

- a. Procurement Process Status. Upon timely receipt of a pre-bid protest, LANTA will delay the opening of bids until after resolution of the protest for protests filed prior to the bid opening, or withhold award until after resolution of the protest for protests filed after bid opening. However, LANTA may open bids or award a contract whenever LANTA, at its sole discretion, determines:
- b. The items or work to be procured are urgently required; or
- c. Delivery or performance will be unduly delayed by failure to make the award promptly; or
- d. Failure to make prompt award will otherwise cause undue harm to LANTA or a funding source.
- e. If the protest is filed before the award of the contract, LANTA will advise the Presumptive Contractor of the pending protest.
- f. If deemed appropriate, LANTA may conduct an informal conference on the merits of the protest with all Interested Parties invited to attend.
- g. Response to the Protest. LANTA's Executive Director will respond in detail to each substantive issue raised in the protest within a reasonable time after the protest is filed. LANTA's response shall address only the issues raised originally by the Protester. When, on its face a protest does not state a valid basis for protest or is untimely, the Executive Director may summarily dismiss the protest without requiring a detailed response.
- h. Rebuttal to LANTA Response. The Protester may submit a written rebuttal to LANTA's response, addressed to the Executive Director, but must do so within five (5) days after receipt of the original LANTA response. LANTA will not address new issues raised in the rebuttal. After receipt of the Protester's rebuttal, the Executive Director will review the protest and notify the Protester of his/her final decision.
- i. Request for Additional Information. Failure of the Protester to comply with a request for information as specified by LANTA may result in determination of the protest without consideration of the additional information if subsequently produced. If any Interested Party requests information from another Interested Party, the request shall be made to LANTA's Executive Director, and, if LANTA so directs, shall be complied with by the other party within five (5) days.
- j. Request for Reconsideration. If data becomes available that was not previously known, or there has been an error of law, a Protester may submit a request for reconsideration of the protest. LANTA's Executive Director will again review the protest considering all currently available information. The Executive Director's determination will be made within a reasonable period of time, and his/her decision will be considered final.
- k. Decision. Upon review and consideration of all relevant information the determination as issued by LANTA will be final.

6. CONFIDENTIALITY OF PROTEST

- a. Material submitted by a Protester will not be withheld from any Interested Party, except to the extent that the withholding of information is permitted or required by law or regulation. If the Protester considers that the protest contains proprietary material which should be withheld, a statement advising of this fact must be affixed to the front page of the protest submission and the allegedly protected information must be so identified whenever it appears.

7. FEDERAL TRANSIT ADMINISTRATION (FTA) INVOLVEMENT.

- a. Where procurements are funded by the FTA, LANTA will notify the Regional Office of any known or pending protests. LANTA will notify FTA again within five (5) business days from receipt of LANTA's final decision, the Protester may file a protest with the FTA only where the protest alleges that LANTA failed to have or failed to adhere to its protest procedures, or there was a violation of Federal Law or Regulation. FTA will not substitute its judgment for that of LANTA unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction. Any protest to the FTA must be filed in accordance with FTA Circular 4220.1.
- b. LANTA's Executive Director must notify FTA when LANTA receives a third-party contract protest to which this FTA C 4220.1 applies, document the protest in the contract file, and keep FTA informed about the status of the protest. LANTA is expected to provide the following information:
 - i. Subjects. A list of protests involving third party contracts and potential third party contracts that:
 1. Have a value exceeding \$100,000, or
 2. Involve a controversial matter, irrespective of amount, or
 3. Involve a highly publicized matter, irrespective of amount.
 - ii. Details. The following information about each protest:
 1. A brief description of the protest,
 2. The basis of disagreement, and
 3. If open, how far the protest has proceeded, or
 4. If resolved, the agreement or decision reached, and
 5. Whether an appeal has been taken or is likely to be taken.
 - iii. When and Where. The recipient should provide this information:
 1. In its next quarterly Milestone Progress Report, and
 2. At its next Project Management Oversight review, if any.