



CITY OF MANHATTAN BEACH
Department of Public Works
Engineering Division

BID PROTEST PROCEDURE

PURPOSE:

The purpose of this policy is to define the bid protest procedure for publicly bid public works projects.

BACKGROUND:

In order to be awarded a contract, the low bid must be “responsive” to the specification, and the low bidder must be a “responsible” bidder. A bid is responsive if it complies with the bidding instructions. In addition, a bidder must be responsible. Public Contract Code Section 1103 defines a responsible bidder as, “a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the public works contract.”

POLICY DIRECTIVE:

A bidder may protest on the ground that the bid is not responsive or the low bidder is not responsible.

Bid Protest

Any bid protest must be in writing and *received* by the City, specifically to the attention of the City Engineer by 5:00 p.m. no later than five (5) working days following bid opening (the “Bid Protest Deadline”). The protest may be transmitted via email to the City Engineer at kdoherly@manhattanbeach.gov and copy the Engineering Division Administrative Assistant at mpark@manhattanbeach.gov, or delivered via US Mail, other mail service, or personal delivery at the Public Works Facility 3621 Bell Avenue in Manhattan Beach. It is important to obtain confirmation from the City that your protest is received by calling the City’s Engineering Division at 310.802.5353. The bid protest must comply with the following requirements:

1. Only a bidder who has actually submitted a Bid Proposal is eligible to submit a bid protest against another bidder. Subcontractors are not eligible to submit bid protests. A bidder may not rely on the bid protest submitted by another bidder, but must timely pursue its own protest.
2. The bid protest must contain a complete statement of the basis for the protest and all supporting documentation. Material submitted after the Bid Protest Deadline will not be considered. The protest must refer to the specific portion or portions of the Contract Documents upon which the protest is based. The protest must include the name, address and telephone number of the person representing the protesting bidder.

3. A copy of the protest and all supporting documents must be concurrently transmitted by or before the Bid Protest Deadline to the protested bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.
4. The protested bidder may submit a written response to the protest, provided the response is received by City before 5:00 p.m., within two (2) working days after receipt of the bid protest (the “Response Deadline”). The response must include all supporting documentation. Material submitted after the Response Deadline will not be considered. The response must include the name, address and telephone number of the person representing the protested bidder.
5. A copy of the response and all supporting documents must also be concurrently transmitted by e-mail, by or before the Response Deadline, to the protesting bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.
6. The procedure and time limits set forth in this section are mandatory and are the bidder’s sole and exclusive remedy in the event of bid protest. The bidder’s failure to comply with these procedures shall constitute a waiver of any right to further pursue a bid protest, including filing a Government Code Claim or initiation of legal proceedings.
7. The City staff will conduct its investigation of the information provided and will respond to all parties in writing with its findings in a timely manner and provide an anticipated date when the contract for the applicable bidder will be presented to City Council for award along with the web-link to the City Council meeting agenda posting page so the applicable bidders can track the award agenda item.
8. The City Council reserves the right to award the Contract to the bidder it has determined to be the responsible bidder submitting the lowest responsive bid, and to issue a notice to proceed with the Work notwithstanding any pending or continuing challenge to its determination.

Effective Date: August 24, 2020 (revised November 10,2022)



Katherine Doherty, P.E. (City Engineer)