

**PORT AUTHORITY OF ALLEGHENY COUNTY**

**BID PROTEST PROCEDURE**

**APRIL 2014**

# PORT AUTHORITY OF ALLEGHENY COUNTY

## Bid Protest Procedure

- I. Purpose: Any actual or prospective bidder, offeror or contractor who is allegedly aggrieved in connection with the solicitation or award of a contract may file a protest with Port Authority of Allegheny County. The procedures for submitting such protests are set forth herein.
  
- II. Definitions:
  - A. The term “Port Authority” shall mean Port Authority of Allegheny County.
  - B. The term “bidder” shall mean any actual or prospective bidder, offeror or contractor in connection with the solicitation or award of a contract pursuant to an Invitation for Bids (IFB), Request for Proposals (RFP) or other form of procurement solicitation.
  - C. The term “interested party” is a party that is an actual or prospective bidder or offeror whose direct economic interest would be affected by the award or failure to award the IFB, RFP or other form of procurement solicitation at issue.
  - D. The term “Port Authority Board” shall mean the governing body of the Port Authority of Allegheny County pursuant to §§ 552 and 556 of Second Class County Port Authority Act, Title 55 P.S. § 551, et.seq.
  
- III. Grounds for Protest: A bidder may only file a protest where it is alleged that:
  - A. Port Authority failed to follow its prescribed procedures in connection with the procurement which the bidder is protesting; or that
  - B. Port Authority has violated a federal, state or local law in connection with the procurement which the bidder is protesting; or that
  - C. Port Authority has abused its discretion in making a discretionary determination such as determining the responsibility of a bidder.
  
- IV. Contents of Protest: A bidder desiring to file a protest must submit a written protest, via certified United States mail with a return receipt request, to Port Authority’s Chief Financial Officer (the “CFO”). The protest must include:
  - A. the name and address of the bidder;
  - B. identification of the contract or bid solicitation being protested;

- C. a detailed and factual statement of the grounds for protest;
- D. supporting documentation; and
- E. the desired relief, action or ruling.

Issues that are not expressly raised in a written statement as grounds for the protest are deemed waived by the protesting bidder.

V. Time for Filing:

- A. Protests alleging restrictive specifications or improprieties in the bid solicitation which are or should be apparent prior to the bid due date must be received by Port Authority not later than three working days prior to the bid due date.
- B. All other protests must be received by Port Authority within five working days after the cause of the protest should have reasonably become known to the protestor, but in any event not later than five working days after the award of the contract has been conditionally authorized by the Port Authority Board.
- C. Any additional information relevant to the protest requested by Port Authority from the protestor shall be submitted to Port Authority as expeditiously as possible, but in no case later than three working days after receipt of such request by the protestor.
- D. The time limits set forth in this section must be strictly adhered to. Port Authority will not consider a protest or additional documentation which is not received by the CFO within the time periods set forth in this section.

VI. Action by Port Authority:

- A. If the Port Authority Board has authorized an award of a contract before the time that a bid protest is received, Port Authority will notify the proposed contractor of the protest, and will suspend the issuance of any notice to proceed until a final decision has been rendered with respect to the bid protest.
- B. If authorization for an award of a contract has not already been made by the Port Authority Board, but bids have been opened, Port Authority will notify all bidders who appear to have a substantial and reasonable prospect of receiving an award if the protest is denied.
- C. A recommendation to the Port Authority Board will not be made for authorization of contract award until a written response to a bid protest has been prepared by the CFO and such response has been transmitted to the bidder filing the protest.

- D. If a bid protest is filed before the due date for receiving bids, Port Authority will notify all bidders from whom bids have been received of the filing of a protest and that bids will not be opened until the protest has been resolved.
  - E. The filing of a protest will not alter the date on which bids are due. Bids will not, however, be opened by Port Authority until such time as the protest is resolved.
  - F. If Port Authority determines that the bid protest is meritorious and that the contract must be rebid, Port Authority will set a new date for the submission of bids as set forth in paragraph VI (H).
  - G. Port Authority shall make a decision regarding the protest and send notice of that decision to the bidder filing the protest within ten working days following receipt of the protest by Port Authority. The notice of the decision shall outline the factors upon which the decision is based.
  - H. If the relief, action or ruling requested by the bidder filing the protest is granted, Port Authority, in its sole discretion, will take those actions which it deems appropriate which may include, but is not limited to, amending the bid solicitation or terminating the procurement process.
- VII. Furnishing Information on Protests: Port Authority shall, upon request, make available to any interested party information bearing on the substance of the protest which has been submitted by the bidder filing the protest except to the extent that withholding of information is required by law or regulation. Any responsive comments from the interested party on this material must be received by Port Authority within three working days, but in no event will a decision be delayed because an interested party has not had an opportunity to provide comments.
- VIII. Conference: A conference on the merits of the protest with the CFO may be held if the CFO deems such a conference to be necessary. Interested parties may request, and in the discretion of the CFO may, be invited to attend the conference.
- IX. Appeals: If the solicitation pertains to a procurement that is funded, in whole or in part, by transit grants or funds provided by and/or administered through the Federal Transit Administration, then after the administrative remedies set forth above have been exhausted, a protesting bidder or proposer may file an appeal with the Region III Administrator of the Federal Transit Administration (FTA) of the U.S. Department of Transportation. The appeal must be filed within five working days of the date when the protestor has received actual or constructive notice of Port Authority's final decision. The protestor must follow the procedures set forth in FTA C 4220.1F, Chapter VII, as amended. The designated contact person from the Purchasing and Materials Management Department identified on the bid or proposal solicitation documents can advise whether or not a procurement involves the use of federal transit funding.