



# SUPERIOR COURT OF CALIFORNIA COUNTY OF MONTEREY

240 Church Street • Salinas, California • 93901 • (831) 775-5400

## **Trial Court Financial Policies and Procedures**

### **6.6.2 Protest Procedures for Competitive Procurement (RFQ, RFP, RFB)**

1. Monterey Superior Court intends to be completely open and fair to all vendors in selecting the best possible service providers within budgetary and other constraints described in the solicitation document. In applying evaluation criteria and making the selection, members of the evaluation team will exercise their best judgment.
2. **Prior to Submission of Bid or Proposal.** An interested party that is an actual or prospective bidder with a direct economic interest in the procurement may file a protest based on allegedly restrictive or defective specifications or other improprieties in the solicitation process that are apparent, or should have been reasonably discovered prior to the submission of a bid or proposal. Such protest must be received prior to the date and time that proposals are due.
3. **After Award.** A vendor submitting a proposal may protest the award based on allegations of improprieties occurring during the proposal evaluation or award period if it meets all of the following conditions:
  - a) The vendor has submitted a proposal that it believes to be responsive to the solicitation document.
  - b) The vendor believes that its proposal meets the trial court's administrative requirements and technical requirements, proposes items and/or service of proven quality and performance, and offers a competitive cost to the trial court; and
  - c) The vendor believes that the trial court has incorrectly selected another vendor submitting a proposal for an award.

Such protest must be received no later than five (5) business days after the protesting party knows or should have known of the facts and circumstances upon which the protest is based. In no event shall a protest be considered if all submittals are rejected or after a contract has been executed.

4. **Form of Protest.** A vendor who is qualified to protest should contact the Finance Department – Contracts & Procurement at the address provided below:

Superior Court of California, County of Monterey  
Finance Department – Contracts & Procurement  
240 Church Street  
Salinas, CA 93901

The Finance Department will forward the matter to the appropriate Contracting Officer.

- a) The protest must be in writing and sent by certified or registered mail or delivered personally to the address listed above. If the protest is hand-delivered, a receipt must be requested.
  - b) The protest shall include the name, address, telephone and facsimile numbers of the party protesting or their representative.
  - c) The title of the solicitation document under which the protest is submitted shall be included.
  - d) A detailed description of the specific legal and factual grounds of protest and any supporting documentation shall be included.
  - e) The specific ruling or relief requested must be stated.
5. The trial court, at its discretion, may make a decision regarding the protest without requesting further documents from the protestor. Therefore, the initial protest submittal must include all grounds for the protest and all evidence available at the time the protest is submitted. If the protestor later raises new grounds or evidence that was not included in the initial protest but which could have been raised at that time, the trial court will not consider such new grounds or new evidence.
6. **Determination of Protest Submitted Prior to Submission of Bid or Proposal.** Upon receipt of a timely and proper protest based on allegedly restrictive or defective specifications or other improprieties in the solicitation process that are apparent, or should have been reasonably discovered prior to the submission of a bid or proposal, the trial court will provide a written determination to the protestor prior to the proposal closing date. If required, the proposal closing date may be extended to allow for a reasonable time to

review the protest. If the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below and the court, at its sole discretion, may elect to withhold the contract award until the protest is resolved or denied or proceed with the award and implementation of the contract.

7. **Determination of Protest Submitted After Submission of Bid or Proposal.** Upon receipt of a timely and proper protest, the trial court will investigate the protest and will provide a written response to the vendor within a reasonable time. If the trial court requires additional time to review the protest and is not able to provide a response within ten (10) business days, the trial court will notify the vendor. If the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below and the court, at its sole discretion, may elect to withhold the contract award until the protest is resolved or denied or proceed with the award and implementation of the contract.
8. **Appeals Process.** The Contracting Officer's decision shall be considered the final action by the trial court unless the protesting firm thereafter seeks an appeal of the Contracting Officer's decision by filing a request for appeal with the Court Financial Officer within five (5) calendar days of the issuance of the Court Financial Officer's decision. The justification for appeal is limited to: facts and/or information related to the protest, as previously submitted, that was not available at the time the protest was originally submitted; or (2) the decision of Contracting Officer was in error of law or regulation. The request for appeal shall include: (1) the name, address, telephone and facsimile numbers of the vendor filing the appeal or their representative; (2) a copy of the trial court's decision; and (3) the legal and factual basis for the appeal and the ruling or relief requested. Issues that could have been raised earlier will not be considered on appeal. Upon receipt of a request for appeal, the Court Financial Officer or his/her designee will review the request and the decision of the Contracting Officer and shall issue a final determination. The decision of the Court Financial Officer shall constitute the final action of the trial court.
10. **Protest Remedies:** If the protest is upheld, the court will consider all circumstances surrounding the procurement in its decision for a fair and reasonable remedy, including the seriousness of the procurement deficiency,

the degree of prejudice to the protesting party or to the integrity of the competitive procurement system, the good faith of the parties, the extent of performance, the cost to the court, the urgency of the procurement, and the impact of the recommendation(s) on the court. The court may recommend any combination of the following remedies:

- (a) Terminate the contract for convenience;
- (b) Re-compete the contract;
- (c) Issue a new solicitation;
- (d) Refrain from exercising options to extend the term under the contract;
- (e) Award a contract consistent with statute or regulation; or
- (f) Other such remedies as may be required to promote compliance.

11. Failure of the bidder to comply with these protest procedures will render a protest untimely and inadequate and may result in rejection thereof by the trial court.