

SCTA Protest Procedures (01/30/2023)

The policies and procedures governing the receipt and resolution of protests in connection with a procurement advanced by SCTA are outlined below. These procedures are in compliance with 2 CFR Part 200.318 (k) and applicable FTA guidelines. If no protests are received, SCTA will execute a contract with the bidder/proposer to whom the award was made.

1) Definitions Related to Protests

"Interested Party" means any actual or prospective bidder, proposer, offeror or contractor. "Days" means business days. "Filed" means the date of receipt by The Office of the SCTA Executive Director or his/her designee. "Federal/State Law or Regulation" means any valid requirement imposed by Federal, State, or other Statute or regulation. "Presumptive Contractor" means the bidder/proposer that is in line for award of the contract in the event that the protest is denied. "Protestor" is an Interested Party who believes they are aggrieved in connection with the solicitation or award of a contract and who files a protest.

2) Types of Protests and Time Limits

For this solicitation, the SCTA Executive Director will review and respond to all protests. A Pre-Bid Protest is based upon alleged restrictive specifications or alleged improprieties in the procurement process by SCTA. A Protestor must file a pre-bid protest no later than Five (5) days prior to the bid opening date by 5:00 PM Lancaster, Pennsylvania prevailing time.

A Pre-Award Protest is based upon alleged improprieties in the procurement process. A Protestor must file a pre-award protest no later than Five (5) days after the Protestor knows or should have known of the facts giving rise thereto by 5:00 PM Lancaster, Pennsylvania prevailing time.

A Post-Award Protest is based upon the award of a contract. A Protestor must file a post-award protest no later than Five (5) days after the notification to the unsuccessful firms of SCTA's intent to award, or no later than Five (5) days after an unsuccessful firm becomes aware of the SCTA's intent to award a contract, whichever comes first, by 5:00 PM Lancaster, Pennsylvania prevailing time.

3) Content of Protest

Protests must be in writing, and filed directly with the Office of the Executive Director of SCTA at:

**Executive Director
South Central Transit Authority (SCTA)
45 Erick Road, Lancaster, PA 17601**

A protest may also be emailed to info@sctapa.com.

Any and all protests must contain the following information:

- a.** The name, address, telephone number and email address of the Protestor
- b.** Identity of the Bid/RFP by project name and project number ("Engineering RFP—Project #__-202__")
- c.** A detailed and factual statement of the grounds for protest and any supporting documentation. The documentation submitted to SCTA must be fully supported to the extent possible.
- d.** The desired relief, action, or ruling from SCTA.

4) Action by the Authority

Procurement Process Status: Upon timely receipt of a protest, SCTA will delay the opening of bids/receipt of proposals until after a resolution of the protest filed prior to the bid opening/proposal receipt. Upon timely receipt of a protest, SCTA will withhold award until after a resolution of the protest filed after bid opening/proposal receipt. Upon timely receipt of a Post-Award protest, SCTA will withhold execution of the contract until after a resolution of the protest.

However, SCTA may open bids/accept proposals, award a contract or execute a contract whenever SCTA, at its sole discretion, determines that:

- a. The items or work to be procured are urgently required.
- b. Delivery or performance will be unduly delayed by failure to make the award promptly.
- c. Failure to make prompt award will otherwise cause undue harm to either SCTA or its funding sources.

If the protest is filed before the award of the contract, SCTA will advise the Presumptive Contractor of the pending protest. If deemed appropriate, SCTA may conduct an informal conference on the merits of the protest with all Interested Parties invited to attend.

- 4.1 **Response to the Protest:** SCTA's Executive Director will respond in detail to each substantive issue raised in the protest within seven (7) days after the protest is filed. SCTA's response shall address only the issues raised originally by the Protestor. When on its face a protest does not state a valid basis for the protest or is untimely, the Executive Director may summarily dismiss the protest without requiring a detailed response.
- 4.2 **Rebuttal to the Authority's Response:** The Protestor may submit a written rebuttal to the SCTA response, addressed to the Executive Director of SCTA, but must do so within five (5) days after receipt of the original Executive Director's response. SCTA will not address new issues raised in the rebuttal. After receipt of the Protestor's rebuttal, the Executive Director will review the protest and notify the Protestor of his/her final decision.
- 4.3 **Request for Reconsideration:** If data becomes available that was not previously known, or there has been an error of law, a Protestor may submit a request for reconsideration of the protest. SCTA's Executive Director will again review the protest considering all currently available information. The Executive Director's determination will be made within seven (7) days, and his/her decision will be considered final.
- 4.4 **Decision:** Upon review and consideration of all relevant information the determination as issued by the Executive Director will be final.

5) Confidentiality of Protest

Material submitted by a Protestor 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 Protestor considers that the protest contains proprietary material which should be withheld, a statement advising SCTA 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.

6) Federal Transit Administration (FTA) Role in Protests

For procurements funded by the FTA, SCTA will inform the FTA of any known or pending protests. In addition, SCTA will notify the FTA again within five (5) days from the release of the final decision made by the Executive Director of SCTA.

The FTA's role in protests is limited. A Protestor may raise with the FTA matters that are primarily a Federal concern. Only under extraordinary circumstances will FTA exercise its discretion to consider a Federal matter before SCTA has completed its review and resolution of the protest. When raising Federal matters with the FTA prior to exhaustion of all administrative remedies with SCTA, a Protestor is advised to clearly articulate the Federal concern, its impact on SCTA's review of the protest, the prejudice to the protester that will result if FTA does not resolve the Federal matter immediately, and provide any other relevant documents or materials. The Protestor must raise any Federal matters arising out SCTA's award of a third party contract within five (5) days of SCTA's final decision of the protest. The address for contacting the FTA is U. S. Department of Transportation, Federal Transit Administration, Region III, 1835 Market Street, Suite 1910, Philadelphia, PA 19103.