

City of San Buenaventura
Public Works Contracts Bid Protest Procedures

The following constitutes the City of San Buenaventura's ("City") Bid Protest Procedures for Public Works Projects. Any protest must comply with the following requirements to be considered:

1. Protest Submission. Any bid protest must be made in writing and received by City by registered mail, or other reliable delivery service providing a receipt showing delivery to the City, addressed to "Public Works Department, Bid Protest, 501 Poli Street, Ventura, CA 93003" before 5:00 p.m. no later than three working days following the determination of the City Engineer or their designee ("City Engineer") of the lowest responsive and responsible bidder (the "Bid Protest Deadline"). A courtesy copy may be sent by email to the Project Engineer identified in the Notice Inviting Bids. Any protest not received by registered mail as described above will not be considered an bid official protest. Only a bidder who has actually submitted a Bid Proposal is eligible to submit a bid protest against the City Engineer's decision to accept or reject the bid of the apparent lowest responsive and responsible 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. Protest Fee. The protesting bidder must submit along with their protest a non-refundable fee in an amount set by Resolution of the City Council, based upon the City's reasonable costs to administer the bid protest. In the absence of the fee amount being set by Resolution of the City Council, the fee shall be a billed-against deposit with the amount of the deposit being \$1,000. In the event the costs of the protest are less than the amount deposited, the balance shall be returned to the protesting bidder. In the event the costs of the protest are higher than the deposit, the City shall send the protesting bidder an invoice for the balance. In the event the protesting bidder prevails in their protest, all monies paid by the protesting bidder under this section shall be returned by the City. By submitting a protest, the protesting bidder agrees to the fee provision.

3. Protest Contents. The bid protest must be in writing and 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, email address, and telephone number of the person representing the protesting bidder if different from the protesting bidder. Any protest shall address one or more of the following:

- a. That a bidder is or is not the low bidder.
- b. That a bidder did or did not submit a responsive bid.
- c. That a bidder is or is not a responsible bidder.

4. Copy to Protested Bidder. A copy of the protest and all supporting documents must be concurrently transmitted by fax, email, or overnight delivery 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.

5. Response to Protest. The protested bidder may submit a written response to the protest, provided the response is transmitted by fax, email, or overnight delivery and received by City before 5:00 p.m., within three working days after the Bid Protest Deadline or after actual receipt of the bid protest, whichever is sooner (the "Response Deadline"). The response must contain all supporting documentation. Material submitted after the Response Deadline will not be considered. The response

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must include the name, address, email address, and telephone number of the person representing the protested bidder if different from the protested bidder.

6. Copy to Protesting Bidder. A copy of the response and all supporting documents must be concurrently transmitted by fax, email, or overnight delivery by or before the Bid Protest 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.

7. City Engineer's Decision. The City Engineer, after reviewing all documents complying with these procedures, and after consulting with the City Attorney, will make a determination as to the merit of, and City's response to the bid protest. A meeting with any stakeholders may be held solely at the discretion of the City Engineer. If a meeting is scheduled and the protesting bidder fails or refuses to appear at the meeting, the bid protest shall be denied, and the protesting bidder will be deemed to have waived all rights to an appeal. The City Engineer will notify all interested parties as to their decision by fax, email, or US Mail. The City Engineer acting in the public's best interest will endeavor to resolve the bid protest as quickly as possible.

8. Appeal of the City Engineer's Decision. Any party who claims to be aggrieved by a decision of the City Engineer rendered pursuant to these procedures may appeal said decision to the City Council at any City Council meeting prior to the Council's award of contract. Any party that intends to appeal the City Engineer's decision must notify the City Engineer of such intent at least two working days prior to the City Council meeting at which they plan to present their appeal. Failure to provide said notification shall void the party of its right to an appeal.

9. Notification of City Council Meetings. All City Council meetings are posted on the City website at <https://www.cityofventura.ca.gov/AgendaCenter>. Interested parties may subscribe for City Council meeting notifications at <https://www.cityofventura.ca.gov/list.aspx#agendaCenter>. All interested parties shall receive their official notification of City Council meetings from the links provided in this section and shall not rely on any City staff member for notification.

10. Exclusive Remedy. 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. A bidder's failure to comply with these procedures will constitute a waiver of any right to further pursue a bid protest, including filing a Government Code Claim or initiation of legal proceedings.

11. Right to Award. 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.

Approved by the City Engineer on February 10, 2021



Phil Nelson, P.E.
Public Works Director / City Engineer