
RFP ADDENDUM #1

Date of Addendum: June 28, 2022

NOTICE TO ALL POTENTIAL RESPONDENTS

The Request for Qualifications (RFQ) is modified as set forth in this Addendum. The original RFQ Documents and any previously issued addenda remain in full force and effect, except as modified by this Addendum, which is hereby made part of the RFQ. Respondent shall take this Addendum into consideration when preparing and submitting its Qualifications.

BID PROTEST PROCEDURES

Bid Protest Procedures have been drafted and provided for clarification.

BID PROTEST PROCEDURES

1.1 SCOPE OF PROTEST PROCEDURE

This Article specifies procedures for interested parties to protest the following YCTDYCTD staff actions:

- A. A written notice denying a bidder's or proposer's request for a change in a requirement in a solicitation document.
- B. A written notice to a bidder or proposer that it has been deemed non-responsive or not responsible.
- C. A written recommendation to the Board or Executive Director to award a contract to a particular bidder or proposer.

1.2 EFFECT OF PROTEST ON CONTRACT AWARD OR BID OPENING

When a protest has been properly filed prior to Contract award, the Board or Executive Director will not award the Contract prior to issuance of a final decision on the protest. When a protest has been properly filed before the opening of bids, bids will not be opened prior to the Board's or Executive Director's decision on the protest.

1.3 RELEASE OF PROTEST INFORMATION

Materials submitted as a part of the protest resolution process will be available to the public except to the extent that:

- A. The withholding of information is permitted or required by law or regulation; and
- B. The information is designated proprietary by the person submitting the information to YCTD. If the person submitting material to YCTD indicates that the material contains proprietary material that should be withheld, a statement advising of this fact must be affixed to the front page of the material submitted and the alleged proprietary information must be specifically identified in the body of the materials wherever it appears.

1.4 MAINTENANCE OF PROTEST RECORDS

The Executive Director, or their designee, will maintain a written record of each step taken in every protest. The record will list dates of each event and photocopies of all correspondence sent and/or received by YCTD pertaining to the protest. These records will be retained for at least 3 years from the date each protest is resolved.

1.5 INCLUSION OF PROTEST PROCEDURES IN SOLICITATIONS

A copy of this Bid/Proposal protest procedure will either be included in every solicitation document issued by YCTD, or be referenced in every solicitation document issued by YCTD with a statement that a copy of this Protest Procedure will be provided immediately to all persons upon request.

1.6 WHO MAY FILE A PROTEST

Protests may be filed only by interested parties. Interested parties are defined as actual or prospective bidders or proposers for an YCTD Contract and subcontractors or suppliers at any tier whose direct economic interest would be affected by an award or failure to amend a Contract, a provision of the solicitation document, or a bid or proposal submitted to YCTD by a prime contractor, or by the interpretation of the provisions of such documents. Submission of a bid or sub-bid will be deemed a waiver of any protest to any provision of the solicitation documents that is not the subject of the protest, and entitle the bidder/proposer or sub-bidder/sub-contractor only to protest any subsequent recommendations/decisions of YCTD staff, the Executive Director, or the Board to disqualify the bidder/proposer, reject its bid/proposal, or award the Contract.

1.7 TIME FOR FILING A PROTEST

Protest to any particular provision of any solicitation document must be received by YCTD no later than 10 working days prior to the date established in the solicitation document as the deadline for submittal of bids or proposals. Protests of a determination that a bidder or proposer is non-responsive or not responsible must be received by YCTD no later than 10 working days from the date of the letter providing notice of the determination. Protests of a staff recommendation to the Executive Director or the Board pertaining to the award of a Contract must be received by YCTD no later than 10 working days from the date of the letter providing notice of the staff recommendation.

1.8 FORM FOR FILING A PROTEST

Protests must be addressed to the YCTD Executive Director, 350 Industrial Way, Woodland, CA 95776. Protests must be in writing and contain a statement of the ground(s) for protest. At least 3 copies of the protest and supporting documentation must be submitted by the protestor in the time and manner specified in this Article. The Executive Director, or his/her designee, will provide notice, by telephone or by letter, to all bidders or proposers known to YCTD for the procurement that is the subject of the protest. Such notice will state that a protest has been filed with YCTD and identify the name of the protestor. The notice must be given not more than 5 working days after receipt of a properly-filed protest. The notice will state that interested parties will receive

further information relative to the protest only if they submit a written request to the Executive Director.

1.9 YCTD'S PRELIMINARY RESPONSE TO A PROTEST

All YCTD responses to a protest will be issued in writing. The Executive Director will designate an YCTD staff person who, not more than 10 working days after receipt of a properly filed protest, will prepare and mail the following information to the protestor and all interested parties requesting such information:

- A. A preliminary staff response to the protest including a brief explanation of the rationale supporting the response; and
- B. The proposed time, date and place of the meeting at which the protestor and YCTD staff will attempt to resolve the protest, if such a meeting is appropriate in the judgment of the Executive Director.

Within 5 working days after the meeting YCTD will provide a further response to the protestor either upholding or modifying the preliminary staff response. Within 5 working days after the further response is mailed or, if no meeting is scheduled, within 10 calendar days after the date YCTD's first response was mailed, the protestor must give the Executive Director written notice that the protest is withdrawn or, alternatively, that the protestor requests further consideration of the protest. If the protestor fails to deliver such notice to the office of the Executive Director within the specified time, the protest will be deemed withdrawn.

1.10 FURTHER INVESTIGATION OF PROTEST

If a protest is not withdrawn pursuant to Section 1.9, the Executive Director or his/her designee will further investigate the protest. The Executive Director may contract for third-party consulting services to investigate a protest, when necessary. The Executive Director may negotiate with the protestor and other interested parties to share the cost of such consulting services. As part of the investigation, the Executive Director or his/her designee will establish reasonable times when YCTD, the protestor, and other interested parties will exchange all documents and arguments relevant to the protest.

Upon written request of the protestor, the Executive Director may forward the protest and YCTD staff response to the Board (if the Board is the awarding authority) for decision without further investigation of the protest by the Executive Director. If the Executive Director elects to proceed without further investigation of the protest, the prior YCTD staff response will be the recommendation of the Executive Director and the Executive Director will proceed as set out in Section 1.12.

1.11 EXECUTIVE DIRECTOR'S RECOMMENDATION OR DECISION

Following investigation, the Executive Director will distribute to the protestor and all interested parties requesting such information, either a written decision, if the Executive Director is the awarding authority, or a written recommendation that the Executive Director will submit to the

Board to resolve the protest, if the Board is the awarding authority. The Executive Director's written decision is final. Upon issuance of the Executive Director's decision, any interested party may appeal to a court of competent jurisdiction, if such forum exists. Within 5 working days after the date of the letter transmitting the Executive Director's recommendation on the protest, the protestor must notify the Executive Director in writing that the protest is withdrawn or that the protestor requests the protest continue to the Board for decision. If the protestor fails to submit such a notice, the protest will be deemed to be withdrawn and all proceedings will cease.

1.12 SUBMITTAL OF PROTEST TO THE BOARD

If the protest is continued to the Board for resolution, the protestor, and all interested parties requesting such information, will be notified of the date, time and place of the Board's hearing at which the protest will be considered; and the date that the protestor and other interested parties must submit written comments with respect to the recommendation. The date established by the Executive Director for submittal of comments by the protestor and other persons will allow a reasonable period for rebuttal and may vary according to the complexity of the particular protest.

A copy of the agenda package sent to Board members prior to a protest hearing will be sent to the protestor and sent or made available to any interested person at least 3 working days before the hearing and will include the Executive Director's recommendation and all written comments received from the protestor and other persons within the submittal period. If the Executive Director has revised his/her recommendation since its distribution, a written description of the new intended decision and the reason(s) for revision will be sent to the protestor and sent or otherwise made available to any interested person.

1.13 BOARD OF DIRECTORS' DECISION

At the Board meeting scheduled for the protest hearing, the Board, in its discretion, may conduct the hearing and/or continue the hearing to a subsequent Board meeting, or hire an impartial hearing officer to conduct a hearing and prepare a written recommended decision including findings of fact.

At the hearing, the Board Chair or hearing officer may announce procedural rules, including those that are reasonably necessary to preclude repetitious or irrelevant testimony. YCTD staff, the protestor, and any interested party as defined in Section 1.6 may present evidence relating to the protest. If either party arranges for the use of a court reporter to transcribe the hearing, the other party must share the cost of transcribing the hearing if it requests a copy of the transcript.

If an impartial hearing officer conducts the hearing, the Executive Director will provide written notice to the protestor, and all interested parties requesting such information, of the date, time and place of the YCTD Board meeting at which the hearing officer's recommendation will be considered for adoption, and the date that the protestor must provide written comments for submittal to the Board. A copy of the documents pertaining to the protest that is provided to the Board with its meeting agenda will be sent to the protestor at least 3 days before the meeting.

In rendering its decision on the protest, the Board, in its discretion, may adopt the decision recommended by the Executive Director, adopt the written recommendation and findings of fact prepared by a hearing officer, or adopt a separate decision. The protestor and all interested parties will be notified in writing of the final decision of the Board within 30 calendar days from the date of the Board meeting. Failure of the Board to reach a final decision or failure to send the written notification of the Board's decision within the prescribed time frame are grounds for any interested party to appeal to a court of competent jurisdiction, if such forum exists.

1.14 WAIVER OF DAMAGES

By submitting a bid/proposal or sub-bid/sub-proposal, each bidder/proposer and sub-bidder/sub-proposer agrees that in the event that it submits any protest to the terms of the solicitation documents or to any subsequent decision of YCTD staff, Executive Director or Board, YCTD retains the discretion to reject all bids/proposals or to make no decision whatsoever. If the YCTD Executive Director or Board rejects all bids/proposals for any reason, or if the Executive Director or Board overrules any protest and awards the Contract, the protesting entity waives all claims, rights and causes of action for loss of anticipated profits from the Contract or any subcontract, regardless of whether YCTD's decision is subsequently invalidated by a court of law. YCTD will be deemed to have relied to its detriment on such waiver in deciding either to reject all bids/proposals or to award the Contract. Any attempted reservation of rights waived herein will be grounds to reject a bid or proposal as nonresponsive.

END OF ADDENDUM