



Board Agenda Item 39

DATE: February 4, 2020

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Bid Protest Procedure for Public Works Projects

RECOMMENDED ACTION(S):

Approve Bid Protest Procedure for public works projects, and authorize the Director of the Department of Public Works and Planning, following review and approval by County Counsel, to modify the procedure as may subsequently be determined necessary or appropriate.

Approval of the recommended action will authorize the implementation by the Department of Public Works and Planning (Department) of a standardized written procedure to be followed when a bid protest is filed on one of the Department's public works construction projects. The intent is to provide a specific process to be followed by any bidder when challenging bid results, and thereby facilitate Department staff's timely processing of such protests. This item is countywide.

ALTERNATIVE ACTION(S):

Your Board may choose not to approve the recommended action, in which case the Department would continue to process bid protests without any formal governing procedure or mandatory filing deadlines.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action; however, some potential savings in project management costs may result from implementation of the procedure.

DISCUSSION:

The Department advertises multiple construction projects every year for various road and bridge maintenance, repair and reconstruction. In connection with this work, contractors submit bids for each project, which (with very few exceptions) is required by statute to be awarded to the lowest responsible bidder having submitted a responsive bid. However, a contractor may submit a protest contesting the validity or responsiveness of a selected bid. The nature of such protests may be based upon various factors, including inconsistencies in bid documents, incomplete bids and procedural errors in bid submittal.

When a bid protest is received, Department staff review the details of the protest, confer with County Counsel on the legal issues associated with the protest, and formulate a recommendation for the Board of Supervisors to consider. The Board makes the final decision on the protest, which determines the identity of the lowest responsible bidder for purposes of the contract award. Up to the current time, the Department has never had a formally approved procedure in place for the administration and consideration of bid protests on its public works projects.

Approval of the recommended procedure will provide clear direction to bidders on the Department's public works projects of the applicable deadline(s) for submittal of a protest and the specific information that must be included in the protest. Compliance with these procedures will be mandatory, and failure to comply will constitute a waiver of the right to further protest the bid in question. Upon adoption, these procedures will be included by the Department in the Specifications for each project that is advertised.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A - Bid Protest Procedures

CAO ANALYST:

Sonia M. De Le Rosa