



**Expo**

# **INVITATION FOR BIDS**

## **Instructions to Bidders**

**IFB NO. XP8901-852**

**MID-CITY/EXPOSITION CORRIDOR  
LIGHT RAIL TRANSIT PROJECT**

**Culver City Station Parking Improvements**

For Questions and additional information, contact:

Contract Administrator: Roslyn M. Lewis, [rlewis@exporail.net](mailto:rlewis@exporail.net), 213.243.5544

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## PART 1. BACKGROUND INFORMATION

### 101. INTRODUCTION

This Invitation for Bids (IFB) is issued by the Exposition Metro Line Construction Authority (Authority or Expo) to seek Bids for the construction of the Culver City Station Parking Improvements Project. This work is located at the Culver City Station 8804 W.Washington Blvd., Culver City, CA 90232 between Venice/Robertson SE Corner and Washington/National NW Corner.

Bids shall be prepared and submitted in accordance with these Instructions to Bidders.

### 102. DEFINITIONS

As used in this Invitation for Bids –

- a. **Agreement or Contract.** The terms “Agreement” and “Contract” mean the Contract for Culver City Station Parking Improvements to be entered into by the Authority and the Consultant.
- b. **Authority or Expo.** The term “Authority” or “Expo” means the Exposition Metro Line Construction Authority.
- c. **Bidder.** The term “Bidder” means any person submitting a bid in response to this IFB.
- d. **Contractor.** The term “Contractor” means the entity that is selected by the Authority pursuant to this IFBP and that is awarded the contract to provide the construction of the Project.
- e. **Contracting Officer.** The term “Contracting Officer” means the Authority staff person responsible for the administration of the IFB and the Contract. The Contracting Officer for this procurement is the individual identified in Section 109 of this IFB.
- f. **Days.** The term “days” means calendar days, unless otherwise specified.
- g. **Dispute.** The term “dispute” shall mean a disagreement between the parties as to the merits, amount or remedy arising out of an issue in controversy, including a disagreement regarding a Claim or asserted default.
- h. **Dispute Review Board “DRB”.** The term “Dispute Review Board” refers to a three member panel established to assist in the resolution of disputes arising out of the conduct of the Work associated with the design and construction of the Exposition project.
- i. **Governing Board.** The term “Governing Board” means the Board of Directors of the Authority.
- j. **IFB.** The term “IFB” means this Invitation for Bids No. XP8901-852.
- k. **Prospective Bidder.** The term “Prospective Bidder” refers to any person who takes one or more of the following actions: (A) receives the IFB by electronic or direct mail; (B) attends the pre-bid conference; or (C) registers with the Authority as a Prospective Bidder. This term is intended to cover firms that would propose as the prime contractor and does not include subcontractors.

### 103. ISSUING AGENCY

The public agency issuing this IFB is the Exposition Metro Line Construction Authority (“Authority” or “Expo”). The Authority was created pursuant to California State law, and is

responsible for the design and construction of a Light Rail Transit line between downtown Los Angeles and Culver City under Phase 1, and to Santa Monica under Phase 2.

#### **104. BIDDER REPRESENTATIONS**

By submitting a Bid, Bidder represents that it:

- Has thoroughly examined and become familiar with the material required under this IFB;
- Is capable of performing in accordance with the General Requirements, Culver City Station Parking Improvements (attached) and has familiarized itself with the terms and conditions in the Draft Contract (attached);
- Acknowledges that its Bid is valid for ninety (90) days and the Bid cannot be withdrawn within that time; and
- Will be bound by all requirements set forth in this IFB.

#### **105. IFB PLANHOLDERS LIST**

Authority will maintain a list of potential Bidders who request or download the IFB documents and notify the Authority that they would like to be listed as IFB Planholders. This list is referred to as the IFB Planholders List. The Authority will notify only those potential Bidders on the IFB Planholders List of addenda, written response(s) to Bidder questions, and requests for interpretation or clarification. To be included on the IFB Planholders list, please send an email including your name, firm name, firm address, phone number and email to Daniela Kauffman at [dkauffman@exporail.net](mailto:dkauffman@exporail.net). An updated IFB Planholders List will be posted on the Authority website [www.buildexpo.org](http://www.buildexpo.org).

#### **106. CONTENTS OF IFB**

This IFB sets forth the requirements governing preparation, submission, and contents of bids submitted by Bidders seeking to be awarded the Contract, and describes the process and factors under which bids will be evaluated. The IFB package includes the following documents:

- Bidder's Book
- Draft Contract
- General Requirements
- Drawings and Documents
  1. Culver City Station Park and Ride

#### **107. CONTRACT TYPE**

It is anticipated that the Contract resulting from this IFB, will be Lump Sum Fixed Price (LSFP) contract with unit prices for the items identified as Provisional Sums in Article 8.2 of the Draft Contract.

#### **108. DESIGNATED CONTACTS AND COMMUNICATIONS**

The designated Authority representative for all questions relating to this IFB is Roslyn M. Lewis, Contract Administrator, 213-243-5564, [rlewis@exporail.net](mailto:rlewis@exporail.net) or Exposition Metro Line Construction Authority, 707 Wilshire Blvd. 34<sup>th</sup> Floor, Los Angeles, CA 90017.

Communications in connection with this IFB shall be in writing and shall be delivered personally or via courier (such as Fedex or UPS); by electronic mail; by facsimile; by telegram; or by regular, registered, or certified mail addressed to the person named above. All communications

must identify the IFB Number. Telephone calls or facsimile messages may be used to expedite communications, but shall not be official communications unless confirmed in writing.

**109. IMPROPER CONDUCT**

If a Prospective Bidder, or anyone representing or acting on behalf of or at the direction of the Bidder, offers or gives any advantage, gratuity, bonus, discount, bribe or loan of any sort to the Authority, including agents or anyone representing the Authority at any time in connection with this IFB or the Contract, the Authority shall immediately disqualify the Bidder and may sue the Bidder for damages.

**110. PROHIBITIONS OF LOBBYING AND CONTACTS**

No person (or entity) submitting a bid in response to this IFB, nor officer, employee, representative, agent, or consultant representing such a person (or entity) shall contact through any means or engage in any discussion concerning the award of the contract with any Member of the Governing Board of the Authority (or his or her personal staff) during the period beginning on the date of issuance of this IFB and ending on the date of Contract Award. Any such contact will be grounds for the disqualification of the Bidder.

## **PART 2. INSTRUCTIONS TO BIDDERS**

### **201. SCHEDULE OF KEY EVENTS**

The schedule of key events for the procurement, leading to the award of the Contract, are as follows:

| <u>EVENT</u>   | <u>DATE</u>            |
|--|------------------------|
| IFB Available  | October 26, 2012       |
| Pre-Bid Meeting: Culver City Station Parking Lot                 | November 7, 2012, 10am |
| Requests for addenda and clarifications due                      | November 14, 2012, 2pm |
| Authority deadline for issuance of clarifications and/or addenda | November 19, 2012      |
| Bid due date   | November 28, 2012, 2pm |
| Recommendation for Contract Award (Authority Board)              | December 6, 2012       |
| Notice to Proceed (Estimated)                                    | January 10, 2013       |

The Authority reserves the right to modify the above schedule in its sole discretion, with appropriate written notice to all Prospective Bidders.

### **202. PRE-BID CONFERENCE**

The Pre-Bid Conference will be held on November 7, 2012 at 10:00 a.m., Pacific Time, at Culver City Station Parking Lot located at 8804 W. Washington Blvd., Culver City, CA 90232 between Venice/Robertson SE Corner and Washington/National NW Corner. Attendance by interested parties is recommended, but not required.

### **203. REQUESTS FOR CLARIFICATION OR APPROVED EQUALS**

All requests for changes, deviations, clarifications to the specifications, terms and conditions, Sample Contract or approved equals must be submitted in writing to Authority prior to 5:00 p.m. on November 14, 2012. Requests and questions received after this time will not be considered.

Written requests and questions may be submitted in writing (including email) to the person identified in Section 109 of these Instructions to Bidders.

Submit all requests to the Contract Administrator Listed on the Cover of this Information for Bidders. All such requests and comments must be clearly labeled "Written Questions/Clarifications" and must reference the IFB number and title.

Authority will acknowledge receipt of all requests whether responded to or not. Responses from the Authority will be posted on Authority's website by close of business November 19, 2012. Offerors may download responses from the Authority's website at [www.buildexpo.org](http://www.buildexpo.org) and select the "Opportunities" tab, or go to [www.buildexpo.org/opportunities-2/](http://www.buildexpo.org/opportunities-2/). Authority's responses may be in the form of Question and Answer, Addenda, or a simple posting of the response.

Authority will not accept any approved equals, deviations, changes or clarifications after the Bid opening.

Any request for an approved equal must be fully supported with technical data, test results, or other pertinent information as evidence that the substitute offered is equal to or better than the specification requirements. The burden of proof as to the equality, substitutability and compatibility of proposed alternates or equals shall be upon Bidder, who shall furnish all information at no cost to Authority. Authority shall be the sole judge as to the equality, substitutability and compatibility of proposed alternates or equals.

**204. ADDENDA**

Authority reserves the right to revise or amend the IFB Documents prior to the Bid opening. Any such revisions will be made by written addenda to this IFB and posted on the Authority's website at [www.buildexpo.org](http://www.buildexpo.org). Copies of such addenda will be furnished via email to all those who are on the IFB Planholders list, however, Bidders are responsible for checking the website for addenda. Transmittal of addenda by email to potential Bidders is considered constructive notice of the document change. Authority will not be bound by any modifications to or deviations from the requirements set forth in the IFB as a result of oral instruction.

Bidders must acknowledge receipt of all addenda to the IFB in their Bid. Failure to acknowledge receipt of all addenda may render the Bid non-responsive.

**205. DBE PARTICIPATION GOAL**

The Authority has established a DBE goal of 10% for this work. The Bidder shall meet this 10% goal or shall demonstrate good faith efforts to meet the goal in accordance with the Authority's DBE and EEO Program Requirements included as Appendix 7 of the Draft Contract.

**206. PREPARATION OF BIDS**

Bids shall be prepared using the Bid Forms provided in the Bidder's Book of the IFB Documents, or on legible photocopies of such forms. Partial or incomplete Bids, or Bids on other than the Bid Forms included herein, may render the Bid non-responsive and may cause its rejection. Bidders are to complete the Bid Forms and initial all interlineations and revisions to entries. Failure to do so may render the Bid incomplete and non-responsive and may cause its rejection.

The Bid prepared by the Bidder shall be complete in itself and shall be submitted within a sealed bid envelope, clearly marked "Sealed Bid IFB No. XP8901-852" in accordance with the instructions herein. A complete Bid includes the following:

- a. **Completed Form BL -- Bid Letter** signed by person(s) with authority to bind the Bidder to its Bid.
- b. **Completed Form BP -- Bid Price**. The Bidder shall furnish a price for each and every Bid item in Form BP. Failure to do so may render the Bid incomplete and nonresponsive and may cause its rejection. The Bidder shall submit a Bid in strict conformity with the requirements of the IFB Documents.

Unit Prices, lump sum prices, and other values must be entered in the appropriate spaces provided. Unit Prices must be multiplied by the estimated quantity shown and the total inserted in the "Total Price" column. The "Total Prices" must be added together in arriving at the "Total Bid Price." The Total Bid Price shall be for the completion and acceptance of all work as required by the Contract.

In the event of error or discrepancy between the Unit Price bid and the Total Bid Price calculated, the Unit Price is agreed to be the valid bid and the Authority will correct the



extension. The Total Bid Price shall be the sum of the Total Prices (Unit Prices multiplied by the estimated quantities).

Should any Unit Price be left blank the Bid may be rejected as non-responsive at the discretion of the Authority.

- c. **Completed Form SUB – Listing of Subcontractors**. Participation by Subcontractors and Suppliers shall be documented on the Bid Form entitled Listing of Subcontractors. This form may be duplicated if needed for listing additional subcontractors/suppliers. In compliance with the Public Contract Code, Sections 4100 *et seq.* of the State of California and any amendments thereto, each Bidder shall provide the following information on FORM SUB for each and every Subcontractor who will perform work, labor, or render service to Bidder in or about the construction of the work in an amount in excess of one-half of one percent (> 0.5%) of the Bidder's Total Bid Price. Bidder shall list only one Subcontractor for anyone portion of the work.
- Name of Subcontractor.
  - Dollar value of each Subcontract.
  - Subcontractor's address (minimum city and state).
  - Provide a clear and precise description of the portion (scope) of work that will be done by each Subcontractor or Supplier.

If the Bidder does not include the above information in its Bid, the Bid may be found non-responsive.

If the Bidder fails to specify a Subcontractor for any portion of the work to be performed under the Contract, it shall be deemed to have agreed to perform such work itself. Subsequent subletting or subcontracting of any portion of the work in an amount in excess of one-half of one percent (> 0.5%) of the Bidder's Total Bid Price, for which no subcontractor was designated in the original Bid, shall only be permitted in cases of public emergency or necessity and then only after obtaining Authority approval. Where a specialty subcontractor is required, the Contractor shall include the subcontractor's license number and expiration date.

- d. **Completed Responsible Bidder's Questionnaire**. For purposes of the questionnaire, a "public entity" is defined to mean "(i) the Federal government and any agencies, departments or subdivisions thereof, and (ii) the State of California or any other state, and any county, city, city and county, district, public authority, public agency, municipal corporation, or any other political subdivision or public corporation therein."

The Bidder shall respond either "yes" or "no" to each of the eight questions included on the questionnaire. If the Bidder's response is "yes" to any question, a full explanation of the circumstances shall be provided in the space following the questions. The Bidder shall attach additional documentation as necessary to fully explain said circumstances. Failure to either respond to the questions or provide adequate explanations may preclude consideration of the Bid and require its rejection.

- e. **Completed Form SQ -- Safety Questionnaire**. Provide the requested information regarding the safety record of proposed personnel, the prime Contractor, and listed Subcontractors. This form may be submitted with the Bid or within 24 hours after date and time of the Bid Due Date. If it is not submitted with the Bid, the form may be submitted via email as a pdf to [rlewis@exporail.net](mailto:rlewis@exporail.net) no later than 2 pm Thursday, November 29, 2012.

f. **Completed Certifications.** Provide the required certifications for Form NC – Non-Collusion Affidavit, Form CL – Certificate Regarding Lobbying by Vendor, Form SF LLL – Disclosure of Lobbying Activities, Form CDS – Certification of Bidder Regarding Debarment, Suspension and Other Responsibility Matters, Form CCD – Campaign Contribution Disclosure, Form GC – Gift Disclosure and Form EEO Equal Employment Opportunity Certification. Bidders should also provide the following Forms contained in the DBE and EEO Manual: Form 2 Declaration of DBE Certification Status, Form 3 Business Data Sheet, Form 4 Prime Contractor Commitment/DBE Confirmation Form, Form 5 Goal Declaration for bidders, Offerors or Proposers.

g. **Buy American Act Certification.** The Buy American Act is applicable to this Contract. Bidder shall Form BAC, Certification of Compliance if it will meet the requirement; or Form BANC, Certification of Non-Compliance if it will not meet the requirement.

**Bidder must complete only the one applicable Buy American form, NOT both.**

h. **Bid Guarantee.** No bid shall be considered unless it is accompanied by an unconditional Bid Guarantee that ensures that the bidder will, if its bid is accepted, execute the Contract. The guarantee shall be in the amount of ten percent (10%) of the Total Bid Price. The guarantee shall be in the form of cash (in U.S. Dollars), a certified or cashier's check or Bid Bond executed by an admitted surety in the State of California, or any combination thereof. Make checks and bonds payable to the Southern California Regional Rail Authority.

If a Bid Bond is submitted, it shall be documented on the form furnished by Authority. Certified or cashier's checks must be drawn on a solvent State or national bank, or branch thereof, in the State of California.

If the Bidder to whom the award is made fails or refuses to sign the Contract or to furnish the required insurance certificates as defined in Instruction to Bidders entitled Insurance Requirements, Bonds as defined in Instruction to Bidders entitled Performance Bond and Payment Bond requirements, the Bid Bond shall be subject to forfeiture to the Authority.

The liability of Authority in connection with such Bid Guarantees will be limited to the return of the Bid Guarantees to the successful bidder after all acts, the performance of which said security is required, have been fully performed. The remaining Bid Guarantees will be returned within 60 calendar Days after Authority has made an award to the successful bidder.

## **207. INSURANCE REQUIREMENTS**

At the time of Bid, the Bidder shall provide the Authority with evidence that policies providing such coverages and limits of insurance as executing the Contract. Satisfactory evidence may be demonstrated by a Certificate of Insurance or letter issued by the Bidder's insurance agent or broker. The required insurance is identified in the Draft Contract, Article 16.

## **208. PERFORMANCE BOND AND PAYMENT BOND REQUIREMENTS**

Prior to the execution of the Contract, the successful Bidder shall deliver to the Authority two identical counterparts of the Performance Bond and Payment Bond each on the forms supplied by the Authority. The bonds shall be executed by an admitted surety insurer acceptable to the Authority and authorized to issue such bonds in the State of California. Such bonds shall be due and required upon award of the Contract. See Appendix 3 and 4 of the Draft Contract for the required forms.

**209. SIGNING OF BID LETTER AND FORMS**

The Bid Letter and all Bid Forms including certifications shall be signed by authorized individuals as described below.

- Sole proprietorship - owner of the firm.
- Partnership - one officer who is authorized in the by-laws of the partnership to bind the firm.
- Corporation - two representatives of the corporation, each of whom must either be an officer or a person otherwise authorized by the Board of Directors to bind the firm. For any representative who is not an officer, the corporation must attach to the Bid a copy of the person's authorization to bind the firm.

In the case of a joint venture, one or more representatives of each firm, each meeting the requirements set forth above, must sign the Bid Letter and Bid Forms including certifications.

**210. PRE-CONTRACTUAL EXPENSES**

All Bids submitted in response to this IFB shall be prepared at the sole expense of the Bidder. Pre-contractual expenses are defined as expenses incurred by the Bidder in:

- Preparing its Bid in response to this IFB.
- Submitting the Bid to Authority.
- Discussing with Authority any matter related to the Bid.
- Any other expenses incurred by Bidder prior to signing the Contract.

Authority shall not in any event be liable for any pre-contractual expenses incurred by Bidder in the preparation of its Bid, and Bidders shall not include any such expenses as part of their Bids.

**211. MODIFIED AND ALTERNATIVE BID PROHIBITIONS**

Unauthorized conditions, limitations, exceptions to terms and conditions and/or additional provisions attached to a Bid may render it non-responsive and may cause its rejection. Bidders shall not delete, modify, and/or supplement the printed matter on the forms and/or make substitutions thereon unless directed to do so in writing by Authority. Oral, electronic, or telephonic Bids and/or modifications will not be considered, unless specifically requested.

**212. SUBMISSION OF BID**

Bids must be submitted at or before the date to the Authority:

Exposition Metro Line Construction Authority  
707 Wilshire Blvd. 34<sup>th</sup> Floor  
Los Angeles, CA 90017  
Attn: Roslyn M. Lewis, BID XP8901-852

Bids received after this date and time shall be considered non-responsive and returned to senders unopened. BE SURE TO ALLOW TIME FOR BUILDING/SECURITY ACCESS!

**213. WITHDRAWAL OF BID**

The Bidder may withdraw its Bid before the time established for the Bid opening by submitting a written request, signed by an authorized representative of the firm and delivered to the Contract Administrator identified on the cover of these Instructions to Bidders, without forfeiture of its Bid Guarantee.

After the Bid opening, the Bidder may only seek relief of its Bid per Sections 5101 et seq. of the California Public Contract Code. Bids withdrawn after the Bid opening may be subject to forfeiture of the Bid Guarantee.

**214. AUTHORITY RIGHTS**

Authority may investigate the qualifications of any Bidder under consideration, require confirmation of information furnished by the Bidder, and require additional evidence of qualifications to perform the work described in this IFB. Authority reserves the right to:

- Disqualify any Bidder in accordance with the Instructions to Bidders;
- Reject any and all of the Bids at its discretion;
- Cancel the entire IFB;
- Issue a subsequent IFB;
- Disqualify the Bid(s) upon evidence of collusion with the intent to defraud or other illegal practices on the part of the Bidder;
- Waive any minor errors, informalities or irregularities in any Bid, to the extent permitted by law; and
- Postpone Bid openings for its own convenience.

This IFB does not commit Authority to enter into a Contract.

**215. DISQUALIFICATION OF BIDDERS**

Except when an alternative Bid has been specifically requested by Authority, no person, firm, corporation, joint venture, or other interested party shall submit more than one Bid for any given Contract. This requirement shall not prevent subcontractors and/or suppliers to one Bidder from providing services and materials to another Bidder, or from submitting a Bid as a Prime Bidder.

Any Bidder that has been compensated by Authority or a consultant engaged by Authority for assistance in preparing the IFB Documents and/or estimate is prohibited from submitting a Bid in response to the IFB. Any such Bidder shall be disqualified after submission of the Bid or award of the Contract.

The following are prohibited from submitting a Bid in response to the IFB: any Bidder or other interested party that discussed this IFB with any official or employee of Authority, or with any consultant engaged by Authority for assistance in preparing the IFB Documents and/or estimate. Any such party may be disqualified after submission or award of the Bid.

**216. OPENING OF BIDS**

Immediately following receipt of Bids, the Authority will conduct a public bid opening at:  
Metro Line Construction Authority  
707 Wilshire Boulevard  
34<sup>th</sup> Floor  
Los Angeles, CA 90017

The Authority will leave unopened any Bid received after the date and time for receipt of Bids. Any such unopened Bid will be returned to the Bidder. Bids will be opened in random order and the amount of each Bid will be read aloud and recorded. Bidders may attend the opening of Bids at the Authority offices.

**217. PUBLIC RECORDS**

All records, documents, drawings, plans, specifications and other materials submitted exclusive property of Authority and may be deemed public records. Said materials may be subject to the provisions of the California Public Records Act (Government Code, sections 6250 et seq.). Authority's use and disclosure of its records are governed by this Act.

Authority will accept information clearly labeled "TRADE SECRET," "CONFIDENTIAL," or "PROPRIETARY" as determined by the submitting party in accordance with the Act. Authority will endeavor to inform the submitter of any request for the disclosure of such information. Under no circumstances, however, will Authority be responsible or liable to the submitter or any other party for the disclosure of any such labeled information. Bidders who indiscriminately identify all or most of their bid as exempt from disclosure without justification may, at Authority's discretion, be deemed non-responsive.

Authority will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act, including interpretations of the Act or the definition of "Trade Secret."

If litigation is brought under the Public Records Act concerning documents submitted in response to this IFB, the appropriate Bidder shall indemnify, defend and hold harmless the Authority in such litigation.

## **PART 3. CONTRACT AWARD**

### **301. BASIS FOR AWARD**

Any contract resulting from this IFB will be awarded to the responsive and responsible Bidder based on the lowest "Total Bid Price" included on Form BP – Bid Price.

A Bid is responsive if it conforms in all material respects with the requirements of this Invitation for Bids. A Bid not meeting the requirements may be rejected.

Responsibility is defined as the apparent ability of the Bidder to meet and successfully complete the requirements of the Contract. Responsibility includes consideration of a Bidder's trustworthiness, the quality of the Bidder's past work, the Bidders' financial ability, and the Bidder's fitness and capacity to do the proposed work in a satisfactory manner. To receive favorable consideration, a Bidder may be required to present evidence that it has successfully performed similar work of comparable magnitude or provide other proof satisfactory to the Authority that it is competent to carry the Work forward to a successful conclusion.

In the event of a tie between the lowest Bid prices (and when the tied Bidders are determined to be both responsive and responsible) the Authority will draw lots in a random fashion to determine the awardee.

### **302. AWARD AND CONTRACT EXECUTION**

Promptly following Board authorization of contract award, the Authority will deliver execution copies of the Contract Agreement to the successful bidder. The selected Contractor shall execute and deliver all such execution copies to the Authority in accordance with Article within fourteen (14) calendar days of receipt, together with the bonds and evidence of insurance and any other documents required to be provided at Contract execution, as stated in the Draft Contract.

## **PART 4. AUTHORITY PROTEST PROCEDURES**

### **401. PURPOSE**

The purpose of this Part is to set forth the procedures to be utilized by the Authority in considering and determining all protests or objections regarding this IFB, and shall supplement the procedures set forth in Authority's Administrative Code.

### **402. GENERAL**

In order for a protest to be considered by the Authority, it must be submitted by an interested party (as defined below) in accordance with the procedures set forth herein. A protest which is submitted by a party which is not an interested party or which is not in accordance with the procedures shall not be considered by the Authority, and will be returned to the submitting party without any further action by the Authority.

### **403. DEFINITIONS**

For purposes of these Protest Procedures:

- a. The term "bid" includes any offer submitted by an offeror in response to this IFB.
- b. The term "contract" means that document to be entered into between the Authority and the successful bidder and offeror.
- c. The term "days" refers to normal business days of the Authority staff offices.
- d. The term "interested party" for purposes of a protest submitted prior to the bid due date means any person who is a Prospective Bidder, and for purposes of a protest submitted on or after the bid due date shall mean a party that has timely submitted a bid in response to this IFB.
- e. The term "solicitation" means the RFP.

### **404. GROUNDS FOR PROTEST**

Any interested party may file a bid protest with the Authority on the grounds that:

- a. The Authority has failed to comply with applicable Federal or State Law;
- b. The Authority has failed to comply with its procurement policy manual;
- c. The Authority has failed to comply with the terms of the solicitation in question, including the failure to adhere to the evaluation criteria set forth in the solicitation, if applicable; or
- d. The Authority has issued restrictive or discriminatory specifications.

**405. CONTENTS OF PROTEST**

- a. A bid protest must be filed in writing and must include:
  - 1. The name and address of the protestor.
  - 2. The name and number of the procurement solicitation.
  - 3. A detailed statement of the grounds for the protest, including all relevant facts and a citation to the Federal or State law, the provisions of the Authority procurement procedures, or specific term of the solicitation alleged to have been violated.
  - 4. Any relevant supporting documentation the protesting party desires the Authority to consider in making its decision.
  - 5. The desired relief, action, or ruling sought by the protestor.
  
- b. Protests must be filed with:
  - Cheryl Johns, Senior Procurement Manager
  - c/o Exposition Metro Line Construction Authority
  - 707 Wilshire Boulevard
  - 34<sup>th</sup> Floor
  - Los Angeles, CA 90012
  
- c. All protests must be received by the Authority address listed above during normal office hours of 8:00 a.m. to 5:00 p.m., Pacific Standard or Daylight Time.
  
- d. If any of the information required by this section is omitted or incomplete, the Authority will notify the protestor, in writing, within one day of the receipt of the protest, and the protestor will be given one day to provide the omitted or incomplete information in order for the protest to be further considered. Note that this provision only applies in the case of a failure to state any grounds for a protest and does not apply to stating inadequate grounds for a protest or the failure to submit documentation.

**406. TIMING REQUIREMENTS AND CATEGORIES OF PROTESTS**

The Authority will consider the following categories of bid protests within the time period set forth in each category:

- a. Any bid protest alleging improprieties in a solicitation process or in solicitation documents must be filed no later than five days prior to the scheduled deadline for submittal of bids, as appropriate, in order to be considered by the Authority. Any protest based on such grounds not filed within this period will not be considered by the Authority. This category of protests includes, but is not limited to, allegation of restrictive or exclusionary specifications or conditions.
  
- b. Any bid protests regarding the evaluation of bids or proposals by the Authority, or improprieties involving the approval or award or proposed approval or award of a contract must be filed with the Authority no later than five (5) working days after publication of the written recommendation for award. Any protest filed after such date which raises issues regarding the bid or proposed evaluation, or the contract approval or award will not be considered by the Authority.

**407. REVIEW OF PROTEST BY THE AUTHORITY**

- a. The Authority will notify the protestor within 3 days of timely receipt of a bid protest that the protest is being considered.



- b. In the notification, the Authority will inform the protestor of any additional information required for evaluation of the protest by the Authority, and set a time deadline for submittal of such information. If the Authority requests additional information and it is not submitted by the stated deadline, the Authority may either review the protest on the information before it, or decline to take further action on the protest.
- c. In its sole discretion, the Authority may give notice of any bid protest to other bidders or proposers for the procurement involved in the protest, as appropriate, and permit such bidders or offers to submit comments to the Authority relative to the merits of the bid protest. The Authority will set a time deadline for the submittal of such comments, which will be no less than 5 days after the Authority provides notification of the protest.
- d. In its sole discretion, the Authority may schedule an informal conference on the merits of a bid protest. All interested parties will be invited to participate in the conference. Any information provided at the conference will only be considered by the Authority in deciding the bid protest if it is submitted to the Authority in writing within 3 days after the conference.

**408. EFFECTS OF PROTEST ON PROCUREMENT ACTIONS**

- a. Upon receipt of a timely protest regarding evaluation of bid or proposals, or the approval or award of a contract, the Authority will suspend contract approval or other pending action, or issue a stop work order if appropriate, until the resolution of the protest. In this event, the successful bidder or proposer may not recover costs as a change order.
- b. Notwithstanding the pendency of a bid protest, the Authority reserves the right to proceed with any appropriate step or action in the procurement process or in the implementation of the contract in the following cases:
  - 1. Where the item to be procured is urgently required;
  - 2. Where the Authority determines, in writing, that the protest is vexatious or frivolous;
  - 3. Where delivery or performance will be unduly delayed, or other undue harm to the Authority will occur, by failure to make the award promptly; or,
  - 4. Where the Authority determines that proceeding with the procurement is otherwise in the public interest.

**409. SUMMARY DISMISSAL OF PROTESTS**

The Authority reserves the right to summarily dismiss all or any portion of a bid protest that raises legal or factual arguments or allegations that have been considered and adjudicated by the Authority in a previous bid protest by any interested party in the same solicitation or procurement action.

**410. PROTEST DECISIONS**

- a. After review of a bid protest by appropriate Authority staff and/or legal counsel, a recommendation shall be made to the Chief Executive Officer of the Authority concerning the appropriate disposition of such protest.

- b. The recommendation shall be made on the basis of the information provided by the protestor and other parties, the results of any conferences, and the Authority's own investigation and analysis.
- c. The decision of the Chief Executive Officer of the Authority shall be in writing and shall be the final binding agency action. Except in exceptional circumstances, the decision of the Chief Executive Officer of the Authority will be issued within 30 days after the date all relevant information is submitted according to the dealings set forth in these procedures.
- d. If the protest is upheld, the Authority will take appropriate action to correct the procurement process and protect the rights of the protestor, including resolicitation, revised evaluation of bids or proposals or the Authority's determination, or termination of the contract.
- e. If the protest is denied, the Authority will lift any suspension imposed and proceed with the appropriate stage of the procurement process or the contract.

**411. FEDERAL TRANSIT ADMINISTRATION APPEALS**

- a. A protestor adversely affected by a bid protest decision of the Authority may submit a protest to the Federal Transit Administration (FTA) in accordance with the provisions of FTA Circular 4220.1, as currently in effect as of the date of the Authority's decision on the bid protest.
- b. Under the provision of the FTA Circular, FTA will only review protests regarding the alleged failure of the Authority to have written protest procedures or the alleged failure to have followed such protest procedures or the alleged failure to review a complaint or protest.
- c. In accordance with the FTA Circular, such protest must be filed no later than 5 days after the protestor knew or should have known of the Authority's alleged failure listed above.
- d. Under the following conditions, the Authority may proceed with the procurement in spite of a pending protest to the FTA:
  - 1. The items to be procured are urgently required;
  - 2. Delivery or performance will be unduly delayed by failure to make the award promptly; or
  - 3. Failure to make prompt award will otherwise cause undue harm to the Authority or the Federal Government.

**412. JUDICIAL APPEALS**

A protestor adversely affected by a bid protest decision may appeal such decision to an appropriate court of the State of California.