

CDTA Protest Procedures:

Pre-Bid Opening Protests. If an Offeror can demonstrate that the Contract Documents issued by CDTA are unduly exclusionary and restrictive or that federal, state or local laws or regulations have been violated during the course of the procurement, then the Offeror may seek a review by the Chief Executive Officer or his appointed representative, at 110 Watervliet Avenue, Albany, NY 12206. Protests shall be clearly identified as Protests and submitted in writing as early as possible; but no later than five business days before bid opening. Within four business days after receipt of a pre-bid protest, the Chief Executive Officer shall make one of the determinations listed in the paragraph entitled Rulings on Protests.

Post-Bid Opening Protests. A protest to the acceptance or rejection of any or of all offers or bids to a contract, or to the award thereof, or to any such action proposed or intended by CDTA must be received in writing by the Chief Executive Officer no later than five business days after the protesting party first learned, or reasonably out to have learned, of the action or the proposed or intended action to which he/she protests.

In the event the protester alleges that the Chief Executive Officer or the representative appointed by the Chief Executive Officer to serve as Decision-Maker for the particular protest, engaged in improper conduct during the subject procurement, the General Counsel shall serve as the Decision-Maker.

Rulings on Protests. Within ten business days, the Chief Executive Officer shall render one of the following determinations:

- A. Protest is overruled.
- B. Protest is substantiated. Chief Executive Officer shall issue instructions to remedy issues relating to the protest.
- C. Procurement activity is suspended until written notification by the Chief Executive Officer.

The determination shall be in writing and shall provide at a minimum a general response to each material issue raised in the protest. All documents submitted by the Protester and/or CDTA staff and reviewed by the Decision-Maker in the reaching of a determination shall form and be retained by CDTA as the formal record of the dispute resolution process.

The issuance of the foregoing determination is CDTA's final determination is CDTA's final decision of the dispute.

All interested parties shall be notified of any protests that are filed. CDTA shall refrain from awarding a contract within five business days of the date of a decision rendered by the Chief Executive Officer regarding a protest, unless CDTA determines that:

- a. The items to be procured are urgently required.

- b. Delivery or performance will be unduly delayed by failure to make a prompt award.
- c. Failure to make a prompt award will otherwise cause undue harm to CDTA or the federal government.

Protester's Appeal to Federal or State Agencies. In the event that CDTA fails to have written protest procedures or fails to abide by the protest procedures set forth above, and federal or state funds are participating in the procurement, then the protester may seek a review by the appropriate funding agency.

Protesters shall file such a protest not later than five (5) business days after a final decision is rendered under CDTA's protest procedure. In instances where the protester alleges that CDTA failed to make a final determination on the protest, protesters shall file a protest with the appropriate agency not later than five (5) business days after the protester knew or should have known of CDTA's failure to render a final determination on the protest.

Notification. CDTA will notify FTA when a protest is received for procurements that are federally funded. If CDTA denies a bid protest we are required to inform FTA.