LOS ANGELES COUNTY

COUNTY OF LOS ANGELES
Internal Services Department
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March 9, 2004

Agenda Date: March 30, 2004

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

REQUEST FOR APPROVAL OF A COUNTYWIDE SERVICES CONTRACT SOLICITATION PROTEST POLICY (ALL DISTRICTS - 3 VOTES)

JOINT RECOMMENDATION WITH CHIEF ADMINISTRATIVE OFFICE, AUDITOR-CONTROLLER, COUNTY COUNSEL, AND INTERNAL SERVICES DEPARTMENT THAT YOUR BOARD:

1 Approve the proposed Countywide Services Contract Solicitation Protest Policy (Attachment 1), effective for solicitations initiated thirty (30) days after Board approval, and order inclusion of the policy in the Board of Supervisors Policy Manual.

2. Instruct the Interim Director of the Internal Services Department to:

- Issue Services Contract Solicitation Protest Policy Implementation Guidelines to all departments, including standard language describing the Policy to be included in all solicitations of Board approved service contracts.

  Incorporate training on the Guidelines in the County's contract training programs.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

This request is to establish a Board policy related to vendor protests on solicitations related to Board approved service contracts. A formal Countywide Protest Policy is needed in order to:

- provide a formal process for vendors to submit their issues and concerns during various phases of a solicitation;
- ensure that all County departments utilize standard procedures and forms in handling vendor protests; and
- ensure that standard language is included in all services contract solicitation documents informing vendors of the County's Protest Policy.

Implementation of a Countywide Protest Policy will result in consistent practices amongst County departments, enhance the integrity of the contracting process and improve vendor relations. Protests of construction and construction-related contracts are handled in accordance with the "Construction Contracting Policy Guidelines" and are not impacted by the implementation of this policy.

Implementation of Strategic Plan Goals

This action supports the County's Strategic Plan goals for Service Excellence and Organizational Effectiveness.

FISCAL IMPACT/FINANCING

There is no Net County Cost impact from this action. Protest panels will be staffed using existing County resources and the applicable training will be performed by staff from ISD.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Staff from ISD, CAO, County Counsel, and the Auditor-Controller worked collaboratively to develop a Countywide Protest Policy for services contracts. The proposed policy provides a process for vendors to formally raise issues during three distinct phases of the solicitation, as follows:

Solicitation Requirements – A vendor may request a Solicitation Requirements Review if they believe that the rating factors, evaluation criteria or minimum requirements related to a solicitation unfairly disadvantage them.

In this case, the vendor submits the request for a Review to the department handling the solicitation. The Review is conducted by department staff not involved in the solicitation. The results of this Review must be documented and provided to the vendor.

Disqualification – A vendor may request a Disqualification Review if they believe that the department erred in its conclusion that the vendor's bid or proposal was non-responsive or failed to follow procedures set forth in the solicitation document and therefore was unfairly disqualified from the solicitation process.

In this case, the vendor submits the request for a Review to the department handling the solicitation. The Review is conducted by department staff not involved in the solicitation. The results of this Review must be documented and provided to the vendor.

Proposed Contractor Selection – A vendor may request a Proposed Contractor Selection Review if they believe that they were the lowest cost, responsive and responsible bidder or the highest scoring proposer and that the department erred in not recommending them for award of the contract.

In requesting the Review, the vendor must claim that they should have been the lowest cost, responsive and responsible bidder or the highest scoring proposer and that one or more of the following applies:

- The department failed to follow procedures specified in its solicitation document for evaluating proposals.
- The department made identifiable mathematical errors or other errors in evaluating the proposal.
- A member of the Evaluation Committee demonstrated bias in the conduct of the evaluation.

In this case, the first level of Review is conducted at the departmental level as described above. However, should a vendor disagree with the department's conclusion, the vendor may submit a written request for a further review by a County Review Panel.

The County Review Panel will consist of three individuals from outside the department conducting the solicitation. The vendor will be given the opportunity to provide written documentation to the Panel, as well as make an oral presentation to support the issue under protest. The department involved with the solicitation will be afforded the same opportunity. The Panel's conclusion will be documented and forwarded to the vendor and the department conducting the solicitation.

In each phase of the review process, vendors have an obligation to adhere to review timeframes and to submit appropriate documentation to support their concerns.

In addition to the above, all proposers will continue to be offered a departmental debriefing at the end of the solicitation process. This process is designed to provide a vendor with feedback on their proposal (i.e., areas of strength and weakness), explain the ratings they received and to answer any questions a vendor might have about the evaluation process.

The attached material includes all the documentation related to a Countywide Protest process. Specifically:

Attachment 1	Proposed Policy Statement for inclusion in the Board of Supervisors Policy Manual
Attachment 2	Implementation Guidelines to be issued to all County Departments
Attachment 3	Standard Language to be included in solicitation documents advising vendors of the County's protest process

Board of Supervisors Policy Manual Number 1.020 (Adding, Amending or Deleting a Board Policy) requires that, in the case of new policy, the department requesting the policy submit a Board letter and the proposed policy statement to the Board for approval. Upon approval, the Countywide Protest Policy will subsequently be uploaded to the County's intranet website.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

A Countywide Protest Policy for services contracts will provide a formal process for vendors to submit protests, ensure that all County departments utilize standard procedures in handling protests, enhance the integrity of the contracting process and improve vendor relations.

CONCLUSION:

Your Board's approval of the recommended action will result in the establishment of a Countywide Policy for vendor protests on solicitations related to contracts for services.

Respectfully submitted,

David E. Janssen
Chief Administrative Officer

Dave Lambertson
Interim Director

Lloyd W. Pellman
County Counsel

J. Tyler McCauley
Auditor-Controller

DL:sg
Attachments (3)

c: Chief Administrative Officer
Auditor-Controller
County Counsel

Los Angeles County
BOARD OF SUPERVISORS POLICY MANUAL

Policy #:	Title:	Effective Date:
0.000	Services Contract Solicitation Protest Policy	00/00/00

PURPOSE

Establishes a process to allow proposers to seek review of a solicitation of a Board-approved service contract and have it considered by the County.

REFERENCE

XX/XX/2004 Board Order, Synopsis XXX
Services Contracting Manual

POLICY

Each department shall comply with the Services Contract Solicitation Protest Policy Implementation Guidelines so as to allow a proposer to seek review of a solicitation of a Board-approved service contract. As used in this Policy, a "proposer" is defined as any person or entity that actually submits a bid, proposal or other response to a services contract solicitation conducted by any department or agency whose governing Board is the Los Angeles County Board of Supervisors. "Proposer" also includes any person or entity that can demonstrate that it would have submitted a bid, proposal or other response to such a solicitation, but for a requirement or provision in the solicitation document that created an unfair disadvantage for the proposer. As used in this Policy, "proposal" includes a bid, proposal, or other response to a services contract solicitation.

The Implementation Guidelines shall include standard language to be used in solicitation documents to notify the proposers of the department's protocol for reviewing service contract solicitations. All County departments should include the language in all Board-awarded services contract solicitation documents.

A review may be granted if the request for a review is submitted timely and the following criteria are met:

1. The firm/person requesting review is a proposer; and

2. The proposer requesting the review alleges that:

    - The solicitation's minimum requirements, evaluation criteria and/or business requirements unfairly disadvantage the proposer; or

    - Due to unclear instructions, the process may result in the County not receiving the best possible responses from the proposers; or

    - It submitted a responsive bid or proposal that was erroneously disqualified; or

    - It should have been the lowest cost, responsive and responsible bidder or ranked the highest rated proposer and was not selected for contract award recommendation.

3. The request for review itemizes in appropriate detail, with factual reasons, the grounds for review as set forth below:

    - For a review of solicitation requirements, the request must assert that application of the minimum requirements, evaluation criteria and/or business requirements unfairly disadvantages the proposer or that due to unclear instructions, the process may result in the County not receiving the best possible responses from the proposers.

    - For a review of a disqualified proposal, the request must assert the department made an error in disqualifying the proposal.

    - For review of a department's proposed contractor selection, the request for review must assert one of the following:

        - The department materially failed to follow procedures specified in its solicitation document; or

        - The department made identifiable mathematical or other errors in evaluating proposals; or

        - A member of the Evaluation Committee demonstrated bias in the conduct of the evaluation; or

        - Another basis for review as provided by state or federal law.

The Internal Services Department, County Counsel, and the Auditor-Controller shall provide training to all County departments on the Implementation Guidelines. The Internal Services Department shall incorporate the Services Contract Solicitation Protest Policy, Implementation Guidelines and the solicitation language in the Services Contracting Manual.

RESPONSIBLE DEPARTMENT

Chief Administrative Office	Auditor-Controller
Internal Services	County Counsel

DATE ISSUED/SUNSET DATE

Issue Date: Month XX, 2003 **Sunset Date: Month XX, 2008**

SERVICES CONTRACT SOLICITATION PROTEST POLICY IMPLEMENTATION GUIDELINES

This document provides instruction on how to implement the Board-approved Services Contract Solicitation Protest Policy. These guidelines address the following areas:

- Introduction
- Notification to Vendor
- Grounds for Review
    - Solicitation Requirements Review
    - Disqualification Review
    - Department's Proposed Contractor Selection Review
        - Departmental Debriefing Process
        - Proposed Contractor Selection Review
        - County Review Panel Process
            - Selection of Panel Members
            - Departmental Scheduling Responsibilities
            - Required Materials for the Panel
            - Conducting the Panel Review
            - Panel Responsibilities
- Standard/Sample Language
- Timeframes
- Solicitation Practices

Introduction

Any proposer who, in the course of a competitive solicitation, is determined non-responsive or who is not being recommended to the Los Angeles County Board of Supervisors ("Board") for award of a contract may request a review of the solicitation of a Board-approved services contract. As used in these Guidelines, a "proposer" is defined as any person or entity that submits a bid, proposal or other response to a services contract solicitation conducted by any department or agency that is governed by the Board. "Proposer" also includes any person or entity that can demonstrate that it would have submitted a bid, proposal or other response to such a solicitation, but for a requirement or provision in the solicitation document that created an unfair disadvantage for the proposer. As used in these Guidelines, "proposal" includes a bid, proposal, or other response to a services contract solicitation.

Throughout the review process, the County has no obligation to delay or otherwise postpone an award of contract based on a proposer protest. However, if a review is still pending at the time the Board is scheduled to consider the award of the contract, the department or agency director should notify the Board that the review is still pending.

Notification to Vendor

Solicitation documents should include information on how a proposer may request a review. The most current solicitation language may be accessed at http://web.co.la.ca.us/lacounty/svcscontractingmanual/ by selecting "Model Solicitation Documents."

Grounds for Review

Unless state or federal statutes or regulations otherwise provide, the grounds for review of any departmental determination or action should be limited to the following:

Review of Solicitation Requirements
Review of a Disqualified Proposal
- Review of Department's Proposed Contractor Selection

The following describes the procedures to be followed for each of these areas.

Solicitation Requirements Review

A person or entity may seek a Solicitation Requirements Review by submitting a written request for review to the department conducting the solicitation. A Solicitation Requirements Review should be granted under the following circumstances:

- The request for a Solicitation Requirements Review is made within ten business days of the issuance of the solicitation document;

- The request for a Solicitation Requirements Review includes documentation, which demonstrates the underlying ability of the person or entity to submit a proposal;

- The request for a Solicitation Requirements Review itemizes in appropriate detail, each matter contested and factual reasons for the requested review; and

- The request for a Solicitation Requirements Review asserts that either:

  - application of the minimum requirements, evaluation criteria and/or business requirements unfairly disadvantages the proposer; or,

  - due to unclear instructions, the process may result in the County not receiving the best possible responses from the proposers.

Wherever possible, the Solicitation Requirements Review should be performed by one or more departmental representatives with services contracting knowledge or experience, who were not associated with the solicitation.

After a request for a Solicitation Requirements Review is received from a proposer, the department should:

- Ensure the request was received within the timeline specified; and
- Review the request to determine if it itemizes in appropriate detail each matter contested, as well as any factual reason(s) for the requested review.

The Solicitation Requirements Review shall be completed and the department's determination shall be provided to the proposer, in writing, within a reasonable time prior to the proposal due date.

Disqualification Review

A proposal may be disqualified from consideration because a department determined it was a non-responsive proposal at any time during the review/evaluation process. If a department determines that a proposal is disqualified due to non-responsiveness, the department shall notify the proposer in writing and provide the following information:

- The specific solicitation criteria the proposal failed to meet;
- The grounds on which the proposer may request a Disqualification Review;
- The specific date by which the proposer must request a Disqualification Review; and,
- Direction to the proposer to include appropriate factual support on each ground asserted in the request for a Disqualification Review as well as copies of all documents and other material which support its assertions.

Upon receipt of the written determination of non-responsiveness, the proposer may submit a written request for a Disqualification Review by the date specified. Requests for a Disqualification Review not timely submitted will be denied.

A Disqualification Review should be granted under the following circumstances:

1. The firm/person requesting a Disqualification Review is a proposer;
2. The request for a Disqualification Review is submitted timely; and
3. The request for a Disqualification Review asserts that the department's disqualification of the proposal was erroneous (e.g. factual errors, etc.) and provides factual support on each ground asserted as well as copies of all documents and other material that support the assertions.

Whenever possible, a Disqualification Review should be performed by a departmental representative(s) with services contracting knowledge or experience, not associated with the solicitation.

After a request for a Disqualification Review is received from a proposer, the department should:

- Ensure the request was received within the timeline specified; and
- Review the request to determine if it itemizes in appropriate detail each ground asserted, as well as any factual reason(s) for the requested Disqualification Review.

The Disqualification Review shall be completed and the determination shall be provided to the proposer, in writing, within a reasonable time after receipt of the request.

Department's Proposed Contractor Selection Review

Departmental Debriefing Process

Upon completion of the evaluation, and prior to entering negotiations with the selected proposer, the department shall notify the remaining proposers in writing that the department is entering negotiations with another proposer. The letter should state that the proposer may request a Debriefing and should set a specific timeframe within which the request may be submitted. A Debriefing will not be provided unless the request is submitted within the timeframe specified.

A Departmental Debriefing is conducted by the individual within the department who was charged with administering the solicitation process.

If the proposer requests a Departmental Debriefing, the department should:

- Ensure the request was received within the timeline specified; and
- Contact the proposer and schedule a Debriefing meeting.

The purpose of the Debriefing is to compare the proposer's response to the solicitation document with the evaluation document. The proposer shall be debriefed only on its response. It is helpful for the proposer to understand the strengths and weaknesses of its proposal, as reflected in the score it received in the evaluation. Because the contract process has not been completed, responses from other proposers shall not be discussed. However, to provide the proposer with proper context, the proposer should be informed as to its relative ranking, i.e. points received compared to other proposals.

If the proposer is not satisfied with the results of the debriefing, it may, within five business days of the debriefing, submit a written request for a Proposed Contractor Selection Review on the grounds and in the manner set forth below.

Proposed Contractor Selection Review

Department shall grant a Proposed Contractor Selection Review of its proposed contractor selection if all of the following circumstances apply:

1 The firm/person requesting a Proposed Contractor Selection Review is a proposer;
2. The request for a Proposed Contractor Selection Review is submitted timely;
3. The firm/person requesting a Proposed Contractor Selection Review asserts that it should have been determined to be the lowest cost, responsive and responsible bidder or the highest-scored proposer because of one of the following reasons:

   a. The department materially failed to follow procedures specified in its solicitation document. This includes:
      - Failure to correctly apply the standards for reviewing the proposal format requirements.
      - Failure to correctly apply the standards, and/or follow the prescribed methods, for evaluating the proposals as specified in the solicitation document.
      - Use of evaluation criteria that were different from the evaluation criteria disclosed in the solicitation document.

   b. The department made identifiable mathematical or other errors in evaluating proposals, resulting in the proposer receiving an incorrect score and not being selected as the recommended contractor.

   c. A member of the Evaluation Committee demonstrated bias in the conduct of the evaluation.

   d. Another basis for review as provided by state or federal law.

4. The request for a Proposed Contractor Selection Review sets forth sufficient detail to demonstrate that, but for the department's alleged failure, the firm/person would have been the lowest cost, responsive, and responsible bidder or highest-scored proposer.

Wherever possible, a Proposed Contractor Selection Review is performed by one or more departmental representatives with services contracting knowledge and experience, who are not associated with the solicitation in question. The

department shall instruct the proposer to ensure the request includes full and complete factual information on each ground for review asserted in the request.

After a request for a Proposed Contractor Selection Review is received from a proposer, the department should:

- Ensure the request was received within the timeline specified; and
- Review the request to determine if it itemizes in appropriate detail each ground asserted, as well as any factual reason(s) for the requested review.

Upon completing the Proposed Contractor Selection Review, the department representative shall issue a written decision to the proposer within a reasonable time, and always before the date the contract award recommendation is to be heard by the Board. The letter should state that if the proposer is not satisfied with the results of the Proposed Contractor Selection Review, it may request a review by the County Review Panel by the date specified. Additionally, the letter should instruct the proposer to:

- Include appropriate factual support on each ground asserted;
- Include all documents and other material which support its assertions;
- Include all items in their request as only the items listed will be considered at the County Review Panel Meeting; and
- Inform the County if legal counsel will be accompanying them to the County Review Panel Meeting.

County Review Panel Process

After a request for a County Review Panel is received from a proposer, the department should:

- Ensure the request was received within the timeline specified; and
- Review the request to determine if it itemizes in appropriate detail each matter contested, as well as any factual reason(s) for the requested review.

Selection of Panel Members

The department shall submit a written request, including the timeframe for completion of the review, to the Chief Administrative Office (CAO) to convene the County Review Panel from a candidate pool of potential Panel members. The pool will consist of contract managers and contract analysts in departments. When convening a County Review Panel, the CAO shall select from the candidate pool three individuals from departments other than the department that administered the solicitation. The CAO shall appoint one of the three individuals

to serve as Chairperson. The Panel members shall have contracting knowledge. No member may have prior involvement with the solicitation.

Chairperson Responsibilities

After receiving CAO notice of Panel member selection, the Panel Chair shall:

- Schedule the date of the Review Panel meeting to give the Panel members sufficient time to receive and review the necessary documentation;

- Contact the Panel members, proposer, and department to provide information on the date, time and location of the Panel meeting;

- Distribute all documentation submitted by department to Panel members; and

- Request County Counsel representation at the Review Panel Meeting if the proposer will be represented by counsel.

Required Materials for the Panel

At the time the department forwards the matter to the County Review Panel, the following documentation shall be provided:

- The request for a review and supporting documentation;
- A copy of the solicitation document;
- A copy of the proposal being reviewed;
- A copy of the evaluation results;
- Copies of any correspondence to and from the proposer;
- A summary of the Departmental Debriefing;
- A copy of the Proposed Contractor Selection Review decision; and
- Any other pertinent documentation.

Conducting the Review Panel

The County Review Panel shall be conducted in accordance with the following guidelines:

- The review is to be facilitated by the County Review Panel Chairperson.
- Participants should be advised that the review by the County Review Panel is not a legal proceeding.
- All facts, comments and arguments made during the review must be relevant to the issues being reviewed.

- The review should be limited to what was presented in the request for review. No new issues can be brought forward in the review.
- All comments are to be made by the proposer and department to the County Review Panel. There is no direct dialogue between the department and the proposer.

Panel Responsibilities

Upon completion of the Panel's review, and under the direction of the Chair, the Panel shall:

- Prepare a written report within ten business days; and
- Forward its report to the department.

Department Responsibilities

Upon receipt of the Panel's report, department shall:
- Provide a copy to the proposer; and
- Forward a copy of the report, as necessary, to other departments.

NOTE: ISD will publish County Review Panel Guidelines on the Intranet at http://web.co.la.ca.us/lacounty/svcscontractingmanual/ and will update the site as changes occur.

Standard/Sample Language

To assist departments in implementing their review protocols, the Internal Services Department and County Counsel have prepared standard solicitation document language setting forth the Services Contract Solicitation Protest Policy which should be used in all solicitations for Board-awarded services contracts.

Timeframes

The complexity and nature of requirements and proposals received, as well as the issues raised by a proposer can vary from solicitation to solicitation. As such, it is not practical to establish an across the board timeline for each phase of the review process. Instead, the implementation instructions call for departments to complete each phase of any review process and to notify the proposer of the review results within a reasonable timeframe:

- Review of Solicitation Requirements – Review results should be provided to the proposer in time to allow for any changes in the submittal of a proposal.

- Review of Disqualified Proposal – Review results should be provided to the proposer in time to allow the proposal to be evaluated prior to the

proposed contractor selection should they receive a favorable disposition of their ground asserted.

- Review of Proposed Contractor Selection – Review results should be provided to the proposer in advance of the scheduled Board date and in time to allow the proposal to be evaluated prior to the proposed contractor selection.

Solicitation Practices

Providing accurate information concerning the services sought, and producing clear, accurate and consistent solicitation documents, as well as appropriately documented evaluations will assist in expediting the solicitation process; minimizing the need for review and enhance vendor relations. To this end, County departments should be aware of the contracting practices set forth in the Services Contracting Manual and consult with County Counsel timely as issues arise in the drafting of solicitation documents or during the solicitation process.

Departments should also consider the additional time that may be required to accommodate vendor protests and plan accordingly for that time in their solicitation processes. It is also recommended that departments add language to contracts that are subject to resolicitation to allow for the department head to unilaterally exercise extensions of the contract term on a month-to-month basis not to exceed a certain period of time (typically six months). Exercising short-term extensions of the contract can ensure continuation of services if a department encounters a protest process that delays award of a subsequent contract.

Departments should:

- Prepare all solicitations with appropriate, current provisions and exhibits. Model solicitation documents may be accessed at http://web.co.la.ca.us/lacounty/svcscontractingmanual/ by selecting "Model Solicitation Documents."

- Follow statutory and policy requirements.

- Draft solicitations using clear and easily understood instructions.

- Define the evaluation criteria clearly prior to release of the solicitation, and include a high level summary of the evaluation criteria, along with weighting for criteria to be evaluated.

- Provide careful instruction for the Evaluation Committee members on the evaluation approach to be used.

- Treat all proposers fairly and impartially.

- Give proposers an opportunity, through proposers' conferences and Departmental Debriefings, to ask questions regarding the solicitation document and/or learn why its proposal was not recommended.

- Include the following Language in solicitation documents under "Proposers' Questions": "Questions may address concerns that the application of minimum requirements, evaluation criteria and/or business requirements would unfairly disadvantage proposers or, due to unclear instructions, may result in the County not receiving the best possible responses from proposer."

- Provide all proposers access to pertinent, concise answers to relevant questions submitted.

- Give all proposers access to the same information and facts about the solicitation documents, statement of work, and qualification requirements.

- Provide appropriate written explanation to a proposer as to why its proposal was determined non-responsive.

- Give proposers notice of how they may request a Departmental Debriefing, a Disqualification Review, a Proposed Contractor Selection Review and/or County Review Panel.

SOLICITATION DOCUMENT LANGUAGE

The following language should be added to the solicitation document:

Protest Process

Any actual or prospective bidder/proposer may file a protest in connection with the solicitation or award of a Board-approved service contract. It is generally accepted that the bidder/proposer challenging the decision of a County department bears the burden of proof in its claim that the department committed a sufficiently material error in the solicitation process to justify invalidation of a proposed award.

Throughout the review process, the County has no obligation to delay or otherwise postpone an award of contract based on a bidder/proposer protest. In all cases, the County reserves the right to make an award when it is determined to be in the best interest of the County of Los Angeles to do so.

Grounds for Review

Unless state or federal statutes or regulations otherwise provide, the grounds for review of any departmental determination or action should be limited to the following:

- Review of Solicitation Requirements
- Review of a Disqualified Proposal
- Review of Department's Proposed Contractor Selection

The following describes the procedures to be followed for each of these areas.

Solicitation Requirements Review

A person or entity may seek a Solicitation Requirements Review by submitting a written request for review to the department conducting the solicitation. A Solicitation Requirements Review shall only be granted under the following circumstances:

- The request for a Solicitation Requirements Review is made within ten (10) business days of the issuance of the solicitation document;

- The request for a Solicitation Requirements Review includes documentation, which demonstrates the underlying ability of the person or entity to submit a proposal.

- The request for a Solicitation Requirements Review itemizes in appropriate detail, each matter contested and factual reasons for the requested review; and

  The request for a Solicitation Requirements Review asserts either that:

  - application of the minimum requirements, evaluation criteria and/or business requirements unfairly disadvantages the proposer; or,

  - due to unclear instructions, the process may result in the County not receiving the best possible responses from the proposers.

The Solicitation Requirements Review shall be completed and the department's determination shall be provided to the proposer, in writing, within a reasonable time prior to the proposal due date.

Disqualification Review

A proposal may be disqualified from consideration because a department determined it was a non-responsive proposal at any time during the review/evaluation process. If a department determines that a proposal is disqualified due to non-responsiveness, the department shall notify the proposer in writing.

Upon receipt of the written determination of non-responsiveness, the proposer may submit a written request for a Disqualification Review by the date specified. Requests for a Disqualification Review not timely submitted will be denied.

A Disqualification Review shall only be granted under the following circumstances:

1. The firm/person requesting a Disqualification Review is a proposer;
2. The request for a Disqualification Review is submitted timely; and,
3. The request for a Disqualification Review asserts that the department's determination of disqualification due to proposal non-responsiveness was erroneous (e.g. factual errors, etc.) and provides factual support on each ground asserted as well as copies of all documents and other material that support the assertions.

The Disqualification Review shall be completed and the determination shall be provided to the proposer, in writing, prior to the conclusion of the evaluation process.

Department's Proposed Contractor Selection Review

Departmental Debriefing Process

Upon completion of the evaluation, and prior to entering negotiations with the selected proposer, the department shall notify the remaining proposers in writing that the department is entering negotiations with another proposer. Upon receipt of the letter, the proposer may submit a written request for a Debriefing within the time specified in the letter. A Debriefing will not be provided unless the request is submitted within the timeframe specified.

The purpose of the Debriefing is to compare the proposer's response to the solicitation document with the evaluation document. The proposer shall be debriefed only on its response. Because the contract process has not been completed, responses from other proposers shall not be discussed.

If the proposer is not satisfied with the results of the debriefing, it may, within five (5) business days of the debriefing, request a review on the grounds and in the manner set forth below for review of the department's recommendation for contract award.

Proposed Contractor Selection Review

The proposer may submit a written request for a Proposed Contractor Selection Review if they assert that their bid/proposal should have been determined to be the lowest cost, responsive and responsible bid or the highest-scored proposal because of one of the following reasons:

a. The department materially failed to follow procedures specified in its solicitation document. This includes:
   - Failure to correctly apply the standards for reviewing the proposal format requirements.
   - Failure to correctly apply the standards, and/or follow the prescribed methods, for evaluating the proposals as specified in the solicitation document.
   - Use of evaluation criteria that were different from the evaluation criteria disclosed in the solicitation document.

b. The department made identifiable mathematical or other errors in evaluating proposals, resulting in the proposer receiving an incorrect score and not being selected as the recommended contractor.

c. A member of the Evaluation Committee demonstrated bias in the conduct of the evaluation.

d. Another basis for review as provided by state or federal law.

Upon completing the Proposed Contractor Selection Review, the department representative shall issue a written decision to the proposer within a reasonable time following receipt of the request for a Proposed Contractor Selection Review, and always before the date the contract award recommendation is to be heard by the Board. If the proposer is not satisfied with the results of the Proposed Contractor Selection Review, it may request a review on the grounds and in the manner set forth below for a County Review Panel.

County Review Panel Process

If the proposer is not in agreement with the results of the department's Proposed Contractor Selection Review, the proposer may submit a written request for a review by a County Review Panel.

Upon completion of the Panel's Review, the Panel will forward its report to the department, which will provide a copy to the proposer.

Bidders/Proposers' Questions

The following language should be added to the Bidders/Proposers' Questions paragraph in the solicitation document:

> Questions may address concerns that the application of minimum requirements, evaluation criteria and/or business requirements would unfairly disadvantage bidders/proposers or, due to unclear instructions, may result in the County not receiving the best possible responses from bidder/proposer.