



SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT

PREQUALIFICATION APPEAL PROCESS

Appeal Procedures

Contractors will be allowed to appeal a negative pre-qualification determination in accordance with California Public Contract Code §20101.d. There is no appeal from a refusal for an incomplete or late application. Without a timely appeal, the Contractor waives any and all rights to challenge the decision of the District, whether by administrative process, judicial process or any other legal process or proceeding.

In conjunction with this Pre-Qualification Policy, the District hereby establishes a Bidder Pre-Qualification Appeals Panel ("Appeals Panel"), consisting of the following members, or their designee(s):

The District's Chief Operations Office
The District's Bond Program Manager – Consultant
The District's Director of Procurement & Contract Management - Consultant

The sole issue before the Appeals Panel shall be the scoring of a Contractor. The decision of the Appeals Panel shall be the District's final administrative decision.

The date for submission and opening of bids for a specific project will not be delayed or postponed to allow for completion of an appeal process.

A. APPEAL PROCESS

(1) **Appeal of District Decision.** An Applicant may appeal the District's decision. Applicant may dispute the District's determinations made as part of the Pre-Qualification process as follows:

(a) The Applicant shall submit, in writing, within five business days following the issuance of the District's determination, a request for a written response from the District explaining the District's determination. Written notification to be sent as follows:

PRE-QUALIFICATION APPEAL

Attn: Sheere Bishop, Director of Procurement and Contract Management
Santa Monica-Malibu Unified School District
2828 4th Street
Santa Monica, CA 90405

(b) Within ten business days of the District's receipt of the Applicant's request, the District shall provide notification to the Applicant in writing of the basis for the District's determinations relative to the Applicant's pre-qualification status ("District Determination").

Santa Monica-Malibu Unified School District
Facility Improvement Projects Office

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(c) If the Applicant disputes the District's Determination, the Applicant may request within five business days following the issuance of the District's determination, in writing, further review of the District's Determination by an Appeal Committee, consisting of one or more individuals appointed by the District's Board of Education, by requesting a meeting with the Appeal Committee to provide evidence that the Applicant believes supports a finding that the District's Determination should be changed. Pending the decision of the Appeal Committee, the prequalification decision made by District personnel shall remain in full force and effect. Should the decision of the District personnel be reversed or revised by the Appeal Committee, the decision shall take effect as of the date of the Appeal Committee's decision and shall not be retroactive. The date for the submission and opening of bids or award of any contract will not be delayed or postponed to allow for completion of an appeal process.

(d) The Appeal Committee shall provide a written decision to the Applicant, either concurring with or denying the appeal. The written decision of the Appeal Committee shall be final.

(e) Failure of an Applicant to timely follow all appeal steps shall be a waiver of the Applicant's right to appeal the District's determinations.

A contractor, who is denied prequalification, shall be disqualified in the same type of work or category of value for a period of one year thereafter.

Appeal of Prequalified Limit

Contractors who received a lower approval limit than expected may appeal if they meet the following criteria:

1. They are currently performing work at the Santa Monica-Malibu School District;
2. The project(s) is more than 50% complete;
3. The work is being performed in a satisfactory manner (on schedule and on budget);
and
4. The Contractor has a good performance history within the district.

To file an appeal, please submit your request in writing along with documentation to support the above criteria to Sheere Bishop at sembishop@smmusd.org.

The prequalified limit appeal will be reviewed within five business days of submission. The decision of the District is final.