



## Procurement Complaint and Appeals Process

Revised August 15, 2013

The Complainant submits a complaint or appeal in writing to the Manager of Procurement and Contracts who also acts as the Contractor Appeals Coordinator. Any complaint or appeal must be filed in writing with the Manager of Procurement and Contracts by 5:00 PM CST within five business days of the date of issuance of the Notification of Intent to Award or non-award incident. Complaints or appeals may also be submitted electronically on company letter head to the Manager of Procurement and Contracts by 5:00 PM CST on the fifth business day at [cdavis@mlgw.org](mailto:cdavis@mlgw.org). In regards to the Procurement Complaint and Appeals Process: complaints are discrepancies with procurement processes; appeals are requests for further review or refusal of procurement decisions/awards. Complaints and appeals will not be considered based upon the failure of the bidder to submit complete bid packages and required information. In addition, complaints and appeals will only be considered when filed by the owner of the business or a senior officer of the company and when the written notification sets forth the Complainant's objection(s) to the bid award and its desired remedy. No supplemental information will be accepted following the deadline set forth above unless requested by MLGW.

Public Records requests regarding proposals and other documentation relating to contracts are independent of this process and should not be included in appeal or protest notifications. All public records requests should be made directly to MLGW's Public Records Clerk at 220 S. Main Street, Memphis, TN 38103. Requests for records included with appeal or protest notifications will not be forwarded to the Public Records Clerk on the Complainant's behalf. Proposals will be available for review by bidders within 48 hours of the date of the Notice of Intent to Award. Other public records information relating to a contract will be available for review in accordance with Tennessee law and MLGW public records policy. Delay in the availability of other public records information requested shall not be grounds for delay in the complaint and appeals process.

For purposes of this Process, whenever this procedure refers to the giving or filing of notice in writing, such notice may be given by delivery, U. S. Postal Service or electronic transmission to the Manager of Procurement and Contracts at [cdavis@mlgw.org](mailto:cdavis@mlgw.org). All communication regarding a protest or appeal must be made through the Contractor Appeal Coordinator. Communication includes but is not limited to documents, statements, telephone calls, emails, text messages, faxes and other methods of contact with Board members, officers and employees of MLGW.

### Process for Complaints and Appeals of Staff Action:

- The Manager of Procurement and Contracts will acknowledge receipt of a protest or appeal and provide notice of the timely filing of same to the award recipient proposed by staff (the "Recommended Awardee"). A copy of the appeal and this appeals process shall be sent to the Recommended Awardee along with the notice. Further action on the applicable recommendation for award will be stayed pending resolution of the protest or appeal. Therefore, the effective date of the Contract or product delivery date may be delayed.
- The Manager of Procurement and Contracts determines whether the complaint is a Purchasing, Contract Management, or Supplier Diversity issue in order to determine which department representatives should be involved in the resolution.



## **Procurement Complaint and Appeals Process**

Revised August 15, 2013

- The Manager of Procurement and Contracts assigns the complaint to the appropriate department representative instituting the request for research and documentation.
- The procurement department representative provides detailed and concise findings in writing and submits to the Manager of Procurement and Contracts.
- If an acceptable resolution is recommended, the Manager of Procurement and Contracts prepares a resolution document, reviews with the Vice President of Finance/CFO/Secretary-Treasurer and forwards to the Complainant and a copy to the Recommended Awardee.
- If the resolution is not accepted by the Complainant, the Complainant may request that the matter be appealed to the MLGW President and CEO for resolution by notifying the Manager of Procurement and Contracts in writing within five (5) business days of the date of any resolution document forwarded to the Complainant. Upon receipt of the request for appeal, the Procurement and Contracts Manager, acting as the Contractor Appeal Coordinator, will forward the initial protest documents and a copy of the Manager's resolution and background information to the MLGW President and CEO for review and resolution. The President at his discretion may hold a hearing. The President will notify the Complainant in writing with a copy to the Contractor Appeal Coordinator and Recommended Awardee of any resolution proposed by the President. In the event the Complainant does not accept the resolution proposed by the President and CEO, Complainant must notify the Contractor Appeal Coordinator in writing within five (5) business days of the date of the President's resolution document requesting that the matter be appealed to the Contractor Appeal Committee.
- The Contractor Appeals Committee is chaired by a member of the MLGW Board of Commissioners and consists of two other members. One from the MLGW External Supplier Diversity Advisory Committee and the Vice President of the affected division.
- Upon receipt of the Request for appeal, the Contractor Appeal Coordinator will forward the notice, together with all documents previously forwarded to the President and CEO, to the Committee and the Recommended Awardee with a request for a hearing date. The hearing of the appeal shall be scheduled at a special meeting of the committee conducted in accordance with the Roberts Rules of Order.
- The Contractor Appeal Coordinator will notify all pertinent MLGW personnel, the Complainant and the Recommended Awardee of the hearing date and time.
- The Committee will hear and review the appeal on the scheduled hearing date. No new or additional documents will be accepted from any party for



## Procurement Complaint and Appeals Process

Revised August 15, 2013

review by the Committee or members of the MLGW Board of Commissioners prior to or at the hearing.

- At the hearing, the Committee shall hear oral presentations based on the initial appeal from the Complainant. Such presentation shall not exceed 30 minutes in length. MLGW staff may make comments and/or a presentation and will be available to respond to questions from the Committee if needed. All parties should be prepared to answer questions. Comments should be limited to the issues raised in the Complainant's request for appeal.
- Following presentations and discussion by the Complainant, the Recommended Awardee shall be given an opportunity to make a statement of no more than 30 minutes in length and respond to questions from Board Committee members prior to any vote by the Committee on the protest or appeal. In the event that the Recommended Awardee is not in attendance at the Complainant's hearing, such Recommended Awardee will be deemed to have waived any opportunity to comment or right to appeal any action taken by the Committee on the Complainant's complaint or appeal. The Committee may by motion either approve or deny the appeal. Motions to approve or deny appeals shall set forth the reasons for such action which reasons shall become a part of the record with respect to the recommendation from the Committee. The decision of the Committee concludes the administrative process.
- The Chair of the Committee will report to the MLGW Board of Commissioners an overview of the hearing and the decision of the Committee at the Regular Meeting when staff's recommendation of the item appealed is presented for Board action.

**END**