



**Board of Trustees**  
**San Luis Obispo County Pension Trust**  
1000 Mill Street  
San Luis Obispo, CA 93408

Date: November 23, 2015

To: Vendors and Interested Parties

From: Carl Nelson – Executive Secretary  
Amy Burke – Deputy Executive Secretary

**Agenda Item 10b: Pension Administration System Replacement RFP—Proposed Process for Resolution of Protests**

This memo is to indicate that the attached staff report and recommendation was approved by the Board of Trustees of the San Luis Obispo County Pension Trust at its regular meeting of November 23, 2015.

Pursuant to the adopted process, any protests are due in writing by 5:00 pm PST on Tuesday, December 1, 2015.

If any protests are received, they will be posted on the SLOPensionTrust.org website within 24 hours.

Pursuant to the adopted process, any submissions by interested parties related to possible protests are due in writing by 5:00 pm PST on Friday, December 4, 2015.

Likewise, if any submissions by interested parties related to possible protests are received, they will be posted on the SLOPensionTrust.org website within 24 hours.

Should any protests or submissions by interested parties be received, it is anticipated that the Board of Trustees will consider such written submissions at the regularly scheduled meeting on December 14, 2015, pursuant to the attached process.



**Board of Trustees**  
**San Luis Obispo County Pension Trust**  
1000 Mill Street  
San Luis Obispo, CA 93408

Date: November 23, 2015

To: Board of Trustees

From: Carl Nelson – Executive Secretary  
Amy Burke – Deputy Executive Secretary  
Chris Waddell – General Counsel

**Agenda Item 10b: Pension Administration System Replacement RFP—Proposed Process for Resolution of Protests**

**Recommendation:**

Staff recommends that the Board of Trustees approve the process in the Attachment to this memorandum for handling any procurement protests related to the RFP for the Pension Administrations System (PAS) project that is currently underway.

**Discussion:**

Related to the PAS replacement project currently underway and in the vendor selection phase, the Pension Trust has received a written protest of the procurement process from Pension Technology Group (PTG), one of the four software vendors to respond to the RFP issued in September. It is possible that other protests may be submitted after the Board selects a vendor for the project. The Pension Trust, due to its limited activity in procurements of any size, does not have a formal procurement protest policy, nor was a protest process included in the RFP issued for the PAS replacement process. As a result, the establishment of an open and transparent due process for considering the protest from PTG or any others that may emerge is appropriate at this time.

General Counsel and staff have consulted with legal counsel for the County and have based the recommended process to the extent possible on the County's process for handling such matters.

ATTACHMENT

**San Luis Obispo County Pension Trust  
Pension Administration System Replacement RFP  
Process for Resolution of Protests**

**1. PURPOSE**

The purpose of this process is to establish a procedure for the resolution of any protests, objections or challenges to the award of a contract pursuant to the above-referenced RFP.

**2. PROCESS**

The requirements set forth in this Policy are mandatory and are a Bidder's sole and exclusive remedy in the event a Bidder desires to challenge, protest or contest the award of a contract under the above-referenced RFP. A Bidder's failure to comply with these requirements shall constitute a waiver of any right to challenge, protest or contest the award of a contract pursuant to the above-referenced RFP in any subsequent proceeding, including, but not limited to, the filing of a Government Code Claim or a court action.

A. Basis for Protest

1. Grounds for Protest: The grounds for a Protest may include any grounds a bidder may have for contesting the award of a contract to any other bidder, including but not limited to the following grounds:
  - a. A bidder objects to a contract being awarded to another bidder on the grounds that the other bidder's bid is nonresponsive.
  - b. A bidder objects to the award of a contract to another bidder on the grounds that the other bidder is not a responsible bidder.
  - c. A bidder objects to a determination that its bid was not viable.

B. Required Form of Protest:

All protests shall be made in writing, containing the information listed below, and shall be filed with the Pension Trust. Protests shall contain the following information:

1. The name, address, telephone, facsimile numbers, and e-mail address of the protesting bidder.
2. The signature of the protesting bidder or its representative.
3. The protest must contain a complete statement of all grounds for the protest, and set forth all supporting facts and documentation. If a protester believes

that there are some facts relevant to the protest that the protesting bidder cannot adequately present in writing, the protesting bidder must describe such facts in its protest under the heading “Facts Requiring Oral Presentation”, and state therein the reasons why the protesting bidder believes it cannot adequately present those facts through documentation.

4. The form of relief requested through the protest.

### C. Protest Requirements and Procedure

1. Standing to Protest: Protests shall only be filed by an entity that submitted a bid pursuant to the above-referenced RFP.
2. Time for Filing a Protest: All protests must be submitted in writing via e-mail to the Pension Trust, addressed to the attention of the Executive Secretary, before 5 PM PST of the fourth (4<sup>th</sup>) business day following the date on which the Pension Trust Board selects a bidder for the award of a contract. This deadline and other deadlines referred to in this process refers to the date on which the Pension Trust Board votes to award a contract to the successful bidder subject to the negotiation of contract language that is acceptable to the Pension Trust. The Pension Trust shall post any protests received on its website within one business day of receiving such protest.
3. Written Responses of Interested Parties: If any interested party desires to respond to the protest, the response must be submitted in writing via e-mail to the attention of the Executive Secretary within three (3) business days of the date the protest was first delivered by e-mail to the interested party. If an interested party believes that there are some facts relevant to its response that the interested party cannot adequately present in writing, the interested party must describe such facts in its response under the heading “Facts Requiring Oral Presentation”, and state therein the reasons why the interested party believes it cannot adequately present those facts through documentation. The Pension Trust shall post any written responses of interested parties received on its website within one business day of receiving such written response.
4. Proof of Transmittal: All protests and responses shall include documentation evidencing that all interested parties were sent a complete copy via e-mail of the respective protest or response concurrently with its submission to the Executive Secretary.
5. No Ex Parte or Unilateral Communications on the Merits of a Protest: No bidder shall have any written communications regarding the merits of a protest with the Pension Trust Board or its members or with Pension Trust Staff that are not concurrently sent to all of the other interested parties. No bidder shall have any oral communications regarding the merits of a protest

with the Pension Trust Board or its members or with Pension Trust Staff other than during an oral presentation before the Pension Trust Board that is noticed under this process.

D. Summary Dismissal of Protest

The Pension Trust Board may summarily dismiss a protest, or specific protest allegations, at any time that it determines that the protest is untimely, frivolous or without merit; is not submitted in the required form specified above, or is submitted by a non-bidder. In such cases, a notice of summary dismissal will be furnished to the interested parties.

E. Decision by the Pension Trust Board Based on Written Submissions Only

In reaching a decision on the merits of a Protest, the Pension Trust Board may consider relevant documentation submitted by the protesting bidder and any other interested party. If the Pension Trust Board wishes to have additional information submitted by the protesting bidder that was not included in the protest or in any of the documentation from other interested parties, the Pension Trust Board will make a request specifying the information sought and time for submittal. Submissions of additional information that has not been specifically requested by the Pension Trust board may not be considered at the Pension Trust Board's sole discretion. The Pension Trust Board need not conduct a "hearing" or consider oral testimony. The Pension Trust Board will issue a written decision containing the basis of the decision. This decision shall be the final decision of the Pension Trust Board with no provision for reconsideration or appeal.

F. Decision by the Pension Trust Board Following Oral Presentation

The Pension Trust Board may, at its discretion, elect to provide an opportunity for the protesting bidder to make an oral presentation regarding the protest. In such event, oral presentations shall be conducted in accordance with the following procedure:

1. Date, Time and Location of the Oral Presentation: Unless otherwise noticed by the Pension Trust, the oral presentation will take place at the first regularly-scheduled Pension Trust Board meeting after the submission of the protest on the noticed date, time and place for that meeting.
2. Guidelines for Oral Presentation: Oral presentations are informal in nature and shall be made by the protestor or its authorized representative. The Pension Trust Board will determine how the oral presentations will be conducted and may set time limits for the presentation. The Pension Trust

Board may request additional documentation or information prior to, during or after the oral presentation. Unless requested by the Pension Trust Board, additional documentation or information may not be accepted. Technical rules of evidence shall not apply. Pension Trust Board members may question interested parties or provide an opportunity for interested parties to make an oral presentation.

3. Decisions: The Pension Trust Board will issue a written decision within 40 calendar days of the oral presentation; however, the time for issuing the written decision may be extended by the Pension Trust Board. A copy of the decision will be furnished to any interested parties and may be published on the Pension Trust's website. The decision shall be the final decision of the Pension Trust Board with no provision for reconsideration or appeal.