
Exhibit 9-H: Sample Procedure for Reconsideration Hearing

This sample procedure is recommended based on 49 CFR 26.53(d). It can be used verbatim or modified as necessary to fit the Local Agency's particular requirements and project. If modifications are necessary, please ensure that they are compatible with 49 CFR 26.

The Local Agency's contracts may be subject to Administrative Reconsideration with the Local Agency's Reconsideration Panel. If the lowest bidder/offeror fails to meet the DBE goal and the Local Agency has determined that the lowest bidder/offeror did not make adequate good faith efforts, the Local Agency must invite the lowest bidder/offeror for administrative reconsideration.

Please note that for Design-Build contracts, Administrative Reconsideration process varies slightly. Design-Build receives a request for reconsideration directly from the proposer. There is also the possibility of a second reconsideration at the end of the project if the proposer fails to meet its DBE Performance Plan, and there is a finding of no GFE when the contract is closed out.

Three high level representatives of the Local Agency make up the three-person panel. Those representatives are provided by each branch of the Local Agency's public work department. The chief of the public work department chairs the Administrative Reconsideration Panel providing the final decision on behalf of the Local Agency. The Local Agency's reconsideration panel must consist of the officials who did not take part in the original determination that the bidder/offeror failed to meet the goal or make adequate good faith efforts.

As a part of the reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue whether it met the goal or made adequate good faith efforts to do so. Within five (5) business days of the reconsideration hearing, the Local Agency will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Local Agency, Caltrans or the USDOT.