

Date: February 26, 2026

FORMAL BID PROTEST – RESPONSIBILITY DETERMINATION

Bid No. 11-2026 – Supply and Delivery of Sodium Bisulfite (SBS)

To:

Bay Area Chemical Consortium (BACC)
Attn: BACC Coordinator
Email: jdymment@bacwa.org

From:

Univar Solutions USA LLC
8201 S 212th St
Kent, WA 98032
Patrick Farrell, Product Director, Sulfur Products
(215) 327-1531
patrick.farrell@univarsolutions.com

1. Standing

Univar Solutions USA LLC (“Protesting Bidder”) submitted a timely, responsive bid under Bid No. 11-2026 and therefore has standing to submit this protest pursuant to **Section 4.2 (Bid Protests)** of the solicitation documents.

2. Nature of Protest

This protest challenges **whether the apparent low bidder satisfies the solicitation’s requirements for responsibility**, as defined in the bid documents. This protest does **not** allege pricing irregularities, form deficiencies, or non-responsiveness. Rather, it concerns whether the apparent low bidder has **demonstrated the capability to perform the full contract requirements** throughout the contract term, as required by the solicitation.

3. Governing Solicitation Provisions

The solicitation expressly conditions award on a determination that the bidder is both responsive **and responsible**, and reserves BACC's discretion to evaluate delivery capability and operational reliability.

Relevant provisions include:

- **Section 2.5 – Bidder Qualifications**, defining a responsible bidder as one having the capability in all aspects to perform full contract requirements
- **Section 2.16 – Method of Award**, authorizing BACC to consider:
 - Capabilities to deliver product throughout the contract term
 - Bidder's reputation, competency, and prior customer service record
 - Third-party hauling company's reputation, competency, and service record
- **Section 3.7 – Delivery Requirements**, establishing mandatory delivery timelines and authorizing termination for persistently late or canceled deliveries
- **Section 3.9 – Emergency Supply Plan**, requiring bidders to address continuity of supply during unexpected or emergency conditions

4. Failure to Demonstrate Adequate Supply Capacity

The apparent low bidder's demonstrated SBS service history in Northern California is limited to a single known municipal consortium customer with an annual SBS consumption of approximately **2,800 tons**.

Bid No. 11-2026 encompasses a **multi-agency consortium with materially greater aggregate demand**, multiple geographic regions, and variable usage patterns, including weather-driven surge requirements across Central Valley, East Bay, Marin/Sonoma/Napa, North Bay, Peninsula, Sacramento, and South Bay regions.

The apparent low bidder has not demonstrated, through publicly verifiable information or bid documentation, that it possesses sufficient **supply scale, redundancy, or throughput capacity** to reliably meet these cumulative requirements throughout the contract term. Under Section 2.5, the burden rests with the bidder to demonstrate capability; absent such demonstration, responsibility cannot be presumed.

5. Logistics Model Creates Material Delivery Risk

The apparent low bidder's SBS supply chain relies on:

- Non-local production
- Rail transportation into California
- Transfer at a commercial transloading facility
- Final truck delivery to BACC agencies

Each railcar carries approximately 200,000 pounds, requiring a high frequency of rail movements to support BACC demand.

Under **Section 3.7**, deliveries must occur within **seven (7) days of order placement**, and multiple BACC agencies require **weekly or more frequent deliveries**, particularly during rain events. Persistent late or canceled deliveries constitute grounds for contract termination.

Rail-dependent supply chains are subject to factors outside the control of the bidder, including railcar availability, carrier delays, congestion, and transloading constraints. Where such a model is relied upon, the bidder bears the obligation to demonstrate sufficient mitigation, redundancy, and contingency planning to ensure compliance with mandatory delivery timelines. The apparent low bidder has not demonstrated such mitigation at a scale commensurate with BACC's requirements.

6. Insufficient Demonstration of Emergency and Surge Readiness

Several participating BACC agencies experience rain-driven, non-linear demand increases, including circumstances requiring multiple SBS deliveries per week. Section 3.9 of the solicitation specifically requests documentation of the bidder's ability to maintain supply during emergency or unexpected conditions.

The apparent low bidder's limited demonstrated service scale, combined with reliance on long-haul rail logistics, raises unresolved questions regarding:

- Ability to respond to short-notice surge orders
- Availability of alternate supply sources
- Transportation redundancy during regional or national rail disruptions

Absent substantiated documentation addressing these issues, the apparent low bidder has not met the solicitation's standard for demonstrating responsibility.

7. Requested Action

The Protesting Bidder respectfully requests that BACC:

1. **Require the apparent low bidder to submit verifiable documentation** demonstrating sufficient SBS supply access, logistics capacity, redundancy, and emergency response capability to meet all requirements of Bid No. 11-2026;
2. **Conduct a formal responsibility determination** pursuant to Sections 2.5 and 2.16 of the solicitation prior to award; and
3. **Withhold award** unless and until BACC determines that the apparent low bidder has affirmatively demonstrated responsibility and capability to perform without material risk to participating agencies.

This protest is submitted in good faith to ensure compliance with the solicitation, protect participating agencies from avoidable supply disruptions, and preserve the integrity of the procurement process.

8. Certification

I certify under penalty of perjury that the statements contained herein are true and correct to the best of my knowledge and belief.

Respectfully submitted,



Patrick Farrell
Product Director, Sulfur Products

Bid Protest Response Letter

February 27, 2026

Univar Solutions USA LLC
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RE: Decision on Protest – Solicitation # **BACC IFB No. 11-2026 – Sodium Bisulfite**

Dear Patrick,

This letter serves as the final decision regarding your protest submitted on February 26, 2026 concerning the above-referenced solicitation. We have reviewed your argument regarding one participant that bid for two locations and did not bid for the remaining six locations.

Background

Univar's protest does not allege pricing irregularities, form deficiencies, or non-responsiveness. Rather, they claim the apparent low bidder, Heimbürger & Company, has not demonstrated the capability to perform the full contract requirements throughout the contract term, as required by the solicitation.

Decision

After consideration of the facts and the solicitation requirements we have decided to deny your protest.

At this point there is no indication that Heimbürger & Company did not understand the expectations of the solicitation and cannot perform the work.

Conclusion

The review of bid submitted documents will continue for all vendors. This constitutes the final administrative decision of BACC.

Sincerely,

Jennifer Dymont
BACC Coordinator