



Finance and Administrative Services Department

PURCHASING DIVISION

115 S. Andrews Avenue, Room 212 • Fort Lauderdale, Florida 33301 • 954-357-6066 • FAX 954-357-8535

Via Email Transmittal

March 23, 2022

Bill Geraghty, Executive Vice President, Sales
Scheidt & Bachmann USA, Inc
1001 Pawtucket Boulevard
Lowell, MA 01854

Re: Premature Objection to Proposed Recommendation of Ranking – Request for Letter of Interests (RLI)
No. PNC2119994R1, Parking Access and Revenue Control Equipment and Maintenance

Dear Mr. Geraghty,

I am in receipt of your firm's premature objection letter received on March 14, 2021, objecting to the proposed recommendation of ranking and seeking clarifications to procedural or process-related elements of the Final Presentation/Ranking Meeting for RLI No. PNC2119994R1, Parking Access and Revenue Control Equipment and Maintenance for the Aviation Department, held on March 9, 2022. Per Section 21.42(h)(1) of the Procurement Code, objections may be filed with the Director of Purchasing within three (3) business days after the ranking is posted on the Purchasing Division's website. However, since the rankings have not yet been posted, your objection letter is premature. Nevertheless, I will address each point of objection/concern. Your letter centers around three main points of objection/concerns and seeks clarification on the following:

1. A potential conflict in reporting relationships between two appointed Selection Committee (SC) members from the Broward County Aviation Department (BCAD).
2. The SC members' reconsideration of the responses and reranking of tied vendors.
3. How and when the County's request of shortlisted firms' updates to the original submittals (on January 17, 2022) was distributed to the SC members for their review and consideration prior to the Final Presentation/Ranking Meeting.

The following will address a summary of your assertion points and provide clarifications for each point of objection/concern.

Objection Assertion No. 1:

Your letter claims that "Unfortunately the current org chart on the County's website does not clarify this matter, but on the surface, it appears that the following two (2) individuals may be conflicted unless the County Administrator had provided prior written approval". Your objection letter seeks clarification pertaining to the County Administrator's appointment of these two individuals: specifically, John Pokryfke and Kevin Wu, from the Aviation Department.

Bill Geraghty, Executive Vice President /Scheidt & Bachmann USA, Inc.
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Response No. 1:

As your objection letter mentioned, Section 21.42(a)(2) of the Broward County Procurement Code states that "The voting members of an Evaluation Committee may include Broward County employees; provided, however, that no County employee may serve on an Evaluation Committee with an employee in the first employee's line of supervision, unless the County Administrator determines in writing that such an appointment is appropriate." Note for clarification: In prior versions of the Procurement Code, the term "Selection" Committee was used specifically for RLI procurements and therefore is used in providing this response. The term "Evaluation" Committee is now cited in the current Code and used in relation to all committee-based procurements (RFP, RLI, RFQ, etc.). The terms are synonymous.

The original Appointment of Selection Committee (SC) Memorandum was approved by the County Administrator on December 18, 2019 and did not include John Pokryfke at that time. As you are aware, this procurement encountered a significant process delay since the August 13, 2020 Initial Selection Committee Meeting until the firms were notified of its resumption on January 17, 2022. During this timeframe, two of the originally appointed SC members left County employment. On January 14, 2022, the County Administrator approved a Revision of Appointment of Selection Committee Memorandum to replace and appoint two new SC members. As such, Mr. Pokryfke was appointed at that time. As your letter mentioned, the County's published organizational chart illustrates high organizational leadership at Department/Division level and above. In 2019, the Aviation Department underwent an internal reorganization which impacted some of its divisions and management positions within each division. In April 2019, Mr. Kevin Wu, Airport Manager transferred to BCAD's Administration Division to head up the department's Emergency Operations. At that time, Mr. Wu ceased reporting to Mr. Pokryfke and therefore no direct reporting conflict exists. The County Administrator's approved Revision of Appointment of Selection Committee Memorandum took this information into account prior to executing the memorandum; however, the Committee Appointment webpage and Initial Summary Meeting Minutes were inadvertently not updated for Mr. Wu's new position since their original posting in 2019/2020, respectively.

Objection Assertion No. 2:

Your letter claims that "the Evaluation Committee never officially reconsidered the responses (as required), and instead simply reranked the tied vendors."

Response No. 2:

The Purchasing Division is procedurally aware of the criteria for breaking ties under Section 21.42 of the Broward County Procurement Code. While Section 21.42(d)(4) states "If the foregoing does not resolve the tie, the Evaluation Committee shall reconsider the responses and rerank the tied vendors" the SC members procedurally have broad discretion in this matter and may or may not make motions to reconsider any or all previously provided material whether written or oral, including each firm's original submittal, supplemental/updated information, vendor presentations, subsequent oral question/answer period responses and an SC member's notes taken during the meeting. Regardless of the elapsed time from Purchasing's announcement of tied votes, in the absence of any SC member's motion to reconsider, the Purchasing Division's past practice has been to proceed to tie breaker criteria which, in this case, invoked the fourth tiebreaker criteria procedure under Section 21.42(d)(4) of the Procurement Code. At no time prior to the on-screen display of the ranking/re-ranking results were any of the SC members apprised, either verbally or visually, of the other SC members rankings (i.e. "knew how their colleagues had voted"). As such, the re-ranking outcome reflects the final ranking results and the SC's final recommendation of ranking.

Although the individual SC member rankings were not announced or displayed, consensus scoring is allowed in public procurement, therefore knowing other SC member's votes does not create an "implicit bias" as stated in your letter. As the closed portion of the meeting for presentations, questions and answers had finished, additional discussion was not necessarily warranted or required for the SC to re-rank based on the tie.

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Objection Assertion No. 3:

Your objection letter addresses a concern and seeks clarification related to "Broward County's January 17, 2022 request for the final three (3) short listed vendors to submit updated information and pricing to the County no later than January 26, 2022. However, to our recollection, there was no official mention of how this information was received, scored, and/or considered by the Evaluation Committee members during the live streamed conference call event that took place on March 9, 2022. Therefore, it is unclear as to what impact this had on the overall evaluation process since there does not appear to have been an official acknowledgement or discussion of this event on the record during the March 9, 2022 meeting.

Response No. 3:

The Director of Purchasing ensures the Evaluation Committee is provided copies of the solicitation (including any addenda), responses, and any supporting or supplemental/updated information required to evaluate and rank firms in order to make a recommendation to the County Commission to award a contract to selected vendors which provide the services required that are in the best interest of the County.

On January 17, 2022, the Purchasing Agent requested the final three (3) short listed vendors to submit updated information and pricing to the County no later than January 26, 2022. All three firms timely complied with this request prior to or on the due date. Although the submission and confirmation of receipt of these updates from each firm was not included in the Purchasing Division Report in the March 9, 2022 Final Presentation/Ranking Meeting, all vendor updates were nevertheless distributed to each SC member via email from the Purchasing Agent on February 2, 2022. Similar to distribution of the original submittals, the SC members had ample time to perform their due diligence reviews and ask/direct questions to the project manager or purchasing agent.

Additionally, during the Final Presentation/Ranking Meeting, an EC member asked a question regarding pricing (during the question-and-answer session). The non-voting Committee Chair did announce for the record, that all the vendors were asked for any updates to their submittals due to the time from initial submittal to Final Presentation/Ranking SC Meeting. Refer to the video, timestamped 1:01:47 through 1:02:11. Although that was during a closed session, it was stated for clarification of the procurement and applied to all proposers.

Summary:

I hope the above clarifications addresses each of your concerns. We understand the time and effort involved in submitting responses and the County appreciates Scheidt & Bachmann's participation in this procurement.

Sincerely,

Robert
Gleason

Digitally signed by Robert
Gleason
Date: 2022.03.23
15:36:35 -04'00'

Robert E. Gleason, Director
Purchasing Division

Attachment

REG/mr/sl

c: Connie Mangan, Purchasing Manager, Purchasing Division
Mark Roberts, Purchasing Agent Senior, Purchasing Division
Dedrie Registe, Contract Grants Administrator, Senior, Aviation Department (Project Manager)
Fernando Amuchastegui, Senior Assistant County Attorney, Office of the County Attorney

SCHEIDT & BACHMANN
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March 14, 2022

Mark Roberts
Senior Purchasing Agent
Broward County Purchasing Division
115 S. Andrews Avenue, Room 212
Fort Lauderdale, FL 33301

RE: PNC2119994R1, Parking Access and Revenue Control Equipment and Maintenance
(PARCS for the Aviation Department)

Dear. Mr. Roberts,

I am writing to you today to seek clarifications and raise objections to the Evaluation Committee's ranking and scoring process at the conclusion of the Vendor Presentations for Broward County Request for Letters of Interest (RLI) No. PNC2119994R1, Parking Access and Revenue Control Equipment and Maintenance that took place this past Wednesday, March 9, 2022 starting at 1:00 pm Eastern Time.

Our objections and concerns are focused around three (3) main points on which we would like further clarification in writing from the Broward County Purchasing Division.

Item number one (1) relates to Broward County Procurement Code Section 21.45, subsection "a", number 2 which states:

The voting members of an Evaluation Committee may include Broward County employees; provided, however, that no County employee may serve on an Evaluation Committee with an employee in the first employee's line of supervision, unless the County Administrator determines in writing that such an appointment is appropriate.

Unfortunately the current org chart on the County's website does not clarify this matter, but on the surface it appears that the following two (2) individuals may be conflicted unless the County Administrator had provided prior written approval:

- John Pokryfke, Enterprise Director, Operations Division, Aviation Department
- Kevin Wu, Airport Manager, Operations Division, Avian Department

We kindly ask for a written response and clarification on this matter.

Secondly, item number two (2) of our objections and concerns relates to Broward County Procurement Code Section 21.42, subsection "d", number 4 which states:

If the foregoing does not resolve the tie, the Evaluation Committee shall reconsider the responses and rerank the tied vendors.

It is this specific subsection that was referenced and ultimately utilized during the Evaluation Committee's final tallying of results after there was an apparent tie between Scheidt & Bachmann USA and Designa Access Corporation after the initial round of scoring. However, in accordance with Section 21.42, the Evaluation Committee never officially reconsidered the responses (as required), and instead simply reranked the tied vendors.

To prove this point, there was no further pause for discussion amongst the Evaluation Committee members and no new information was presented. Instead, new tie breaker ballots were already being handed out to the Evaluation Committee while the rules for a tie breaker were still being explained to the vendors on the live streamed conference call.

Therefore in the few minutes that had transpired from the initial reading and scoring of vendors, the **ONLY** thing that changed is that each of the Evaluation Committee members now officially knew how their colleagues had voted. On the surface this creates implicit bias for the Evaluation Committee members for perhaps wanting to align their initial votes to how a fellow colleague on the Committee may have voted. Again, since there was no further official reconsideration as required under Section 21.42, subsection "d", number 4, this is the only conclusion one could reasonably draw from this chain of events.

Since Scheidt and Bachmann had received three (3) first place votes from Evaluation Committee members Ben Sanchez, Dr. Natacha Yacinthe, and Kevin Wu after the initial round of scoring, one should have reasonably expected to retain these three (3) first place votes without there being some official, on the record reconsideration. Instead, the Evaluation Committee simply just revoted and suddenly two (2) of Scheidt & Bachmann's initial three (3) first place votes became second place votes during the tie breaker vote without any official, or on the record reconsideration as required under the Broward County Procurement Code. The only thing that changed during those brief few minutes was the disclosure of first round votes.

Once again, we kindly ask for a written response and clarification on this matter.

Lastly, item number three (3) of our objections and concerns relates to Broward County's January 17, 2022 request for the final three (3) short listed vendors to submit

updated information and pricing to the County no later than January 26, 2022. However, to our recollection, there was no official mention of how this information was received, scored, and/or considered by the Evaluation Committee members during the live streamed conference call event that took place on March 9, 2022. Therefore, it is unclear as to what impact this had on the overall evaluation process since there does not appear to have been an official acknowledgement or discussion of this event on the record during the March 9, 2022 meeting.

Once again, we kindly ask for a written response and clarification on this matter, as well on the other two (2) items above.

We thank you in advance for reviewing these concerns and eagerly await an official response from Broward County.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Geraghty", with a long horizontal flourish extending to the right.

Bill Geraghty
Executive Vice President, Sales
Scheidt & Bachmann USA, Inc.