



Finance and Administrative Services Department

PURCHASING DIVISION

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

DATE: March 8, 2022

TO: Evaluation Committee Members

THRU: Robert Gleason, Director, Purchasing Division

Robert
Gleason

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Gleason
Date: 2022.03.08 15:32:26
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FROM: Lashonne Williams-Canty, Purchasing Agent, Purchasing Division

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Date: 2022.03.08 15:03:06
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SUBJECT: Cone of Silence Communication
Letter from LSN Partners dated March 7, 2022
RFP No. PNC2122842P1 Professional Consultant Services for Airport Utilities
and Pavement Projects DBE

In accordance with Cone of Silence Ordinance, Section 1-266(d)(5), the Director of Purchasing or designee shall accept written communications from a Vendor or Vendor's Representative during the time a Cone of Silence is applicable to a Competitive Solicitation. Such writing, including any response thereto, shall be provided to the person or the members of the applicable committee appointed or designated to recommend a Vendor for award. The writing shall also be attached to the Board agenda item for the award or for approval of the contract under the applicable Competitive Solicitation.

The attached letter from LSP Partners, dated March 7, 2022, on behalf of its client EAC Consulting, is being transmitted to the Evaluation Committee based on the above Cone of Silence requirement.

For reference, the Final Evaluation Committee meeting's video is available at this [link](http://www.broward.org/purchasing) on the Purchasing Division's repository for this solicitation (www.broward.org/purchasing). The firm referenced in the letter, AVCON, presentation starts at around 10:34 a.m. (approximately 23 minutes from the start of video recording). AVCON's Principal introduced the firm at the beginning of their presentation and then introduced the Project Manager (3 minutes and 23 seconds elapsed). The Project Manager completed the presentation, addressing the evaluation criteria and the requested Evaluation Committee questions. All firms were allowed to have their Team participate in the subsequent question and answer session.

Additionally, to clarify the objection raised in the Cone of Silence letter, topics and/or direction for presentations are not part of a solicitation's responsiveness criteria. Per the Standard Instructions to Vendors, Section G, Presentations, "Vendors that are determined to be both responsive and responsible to the requirements of the solicitation and/or shortlisted (if applicable) will have an opportunity to make an oral presentation to the Evaluation Committee on the Vendor's approach to this project and the Vendor's ability to perform. The committee may provide a list of subject matter for the discussion. All Vendor's will have equal time to present but the question-and-answer time may vary..."

reg/lwc

Attachment: Letter from LSN Partners dated March 7, 2022

cc: Fernando Amuchastegui, Senior Assistant County Attorney, Office of the County Attorney
Christine Calhoun, Purchasing Manager, Purchasing Division



March 7, 2022

VIA ELECTRONIC MAIL: rgleason@broward.org

Robert Gleason, Director
Broward County Purchasing Division
115 S. Andrews Avenue, Room 212
Fort Lauderdale, FL 33301

Re: RFP PNC2122842P1, Professional Consultant Services for Airport Utilities and Pavement Projects DBE ("RFP") Cone of Silence Letter.

Dear Mr. Gleason:

We are writing on behalf of EAC Consulting, Inc. ("EAC") regarding the above-referenced RFP. As it currently stands, EAC was the fourth ranked proposer. It is expected that the top three proposers will be awarded contracts. **One of the top three ranked proposers, AVCON, Inc. ("AVCON"), did not comply with the requirements of the solicitation and should, therefore, be disqualified. With AVCON disqualified, EAC should be ranked in the top three.**

EAC intended to write an objection letter once the proposed rankings were posted, and still intends to, if necessary. Given that the Evaluation Committee ("EC") will be reconvening on March 9 to resolve a separate issue, we believe it is appropriate to raise our objections now to save time. It is codified in Section 21.2(b) of the Broward County Procurement Code. It is in the interest of all parties that the procurement process be efficient; therefore, it is our request that staff consider and that the EC hear these arguments at the present time instead of having to reconvene again. Under Section 1-366(e)(5) of the Broward County Code of Ordinances:

"The Director of Purchasing or designee shall accept written communications from a Vendor or Vendor's Representative during the time a Cone of Silence is applicable to a Competitive Solicitation. Such writing, including any response thereto, shall be provided to the person or the members of the applicable committee appointed or designated to recommend a Vendor for award."

Pursuant to this provision, we respectfully request that the Director of Purchasing ("Director") provide this letter as soon as possible to the EC Members, for their consideration at the March 9 meeting.

Background & RFP Requirements

Pursuant to Section J of the solicitation document for this RFP, during the Initial Evaluation Meeting on January 31, 2022, the Chair asked each of the EC Members if there were any additional requirements they would like to see as a part of the presentations. During that portion of the meeting, EC Member Alejandro Cuevas requested, "I would like the presentation to be presented by the Project Manager if that's possible." The Chair responded "Of course."

On February 11, an email from a purchasing agent was sent to all the shortlisted teams stating, "The Evaluation Committee is asking that the Project Manager for each firm presents the entire presentation." The EC members were not copied on this email sent by the purchasing agent. An email of this type, which interprets a specific mandate of the EC and leaves no room for judgment.

AVCON Should Be Deemed Non-Responsive

The preliminary ranking of AVCON in the top three is improper; AVCON should be deemed non-responsive. During the presentations, the majority of teams adhered to the requirement that the Project Manager present the entire presentation. However, AVCON did not.

The presentation by AVCON was given by multiple presenters, which provided an unfair advantage to their proposal. EAC wished to have its principal and subject matter experts, who have significant experience and expertise, as presenters but were constrained by the clear-cut requirement provided by the EC and purchasing agent. Also, it must be noted that at the time of the Final Evaluation Meeting and during the scoring of the proposals, the EC Members were unaware of the email sent by purchasing which elaborated and underscored the requirement that only the Project Manager present.

Per Broward County's Purchasing Code Section 21.40(a) and as directly quoted from Section A of the RFP, a responsive vendor is one which, "meets all the requirements of the solicitation." By using multiple presenters, AVCON failed to meet all the requirements of the solicitation, and it is clear that AVCON should be deemed non-responsive.

We feel very strongly that AVCON was not responsive to the solicitation since it did not comply with all the requirements. However, in the event that AVCON is found to be responsive, the EC needs to re-score the proposals based on the new information revealing they received an unfair advantage. It is simply not reasonable that AVCON's blatant disregard of the solicitation's requirements have no effect on the outcome of the rankings.

Conclusion

Among its stated goals, Section 21.2 of the Broward Purchasing Code codifies that the purpose of the code is to provide consistency, equitable treatment of participating vendors, safeguards to ensure and maintain the quality and integrity of County's procurement system, and uniformity in application. Ignoring the unfair advantage that was afforded to AVCON would undermine all these principles and sets a precedence for all future solicitations.

AVCON violated the spirit and the letter of Broward County's Procurement Code and gained an unfair advantage. AVCON should be deemed non-responsive. EAC participated fairly throughout every step of the procurement process but is at a disadvantage to AVCON for doing so. EAC deserves to be ranked in the top three based on the merits of their proposal. EAC is highly qualified to perform the services in this solicitation and looks forward to working with Broward County. Thank you for your time and consideration.

Sincerely,



Joshua Freeman
LSN Partners, LLC.

All statements made in support of this letter are accurate, true and correct.



EAC Consulting, Inc.

cc: Fernando Amuchastegui, Esq. (via email: fa@broward.org)
Lashonne Williams-Canty (via email: lwilliamscanty@broward.org)
Salustio Jaramillo (via email: saJaramillo@broward.org)
EAC Consulting, Inc.
George Platt, Esq.