

**ADDITIONAL MATERIAL**

**Regular Meeting**

**MARCH 10, 2020**

**SUBMITTED AT THE REQUEST OF**

**OFFICE OF THE COUNTY ATTORNEY**



March 9, 2020

Andrew J. Meyers, Esq.  
Broward County Attorney  
115 S. Andrews Avenue, Suite 423  
Fort Lauderdale, Florida 33301  
via Email: [ameyers@broward.org](mailto:ameyers@broward.org)

**Re: *Agenda Item #52, March 10, 2020 County Commission Agenda: A. MOTION TO REJECT all proposals for RFP No. GEN2119422P1, Communication & Marketing Services; & B. MOTION TO AUTHORIZE County Administrator to approve Request for Proposals (RFP) No. GEN2119422P2, Communication and Marketing Services (Re-solicitation)***

Dear Mr. Meyers:

Primarily, we express our appreciation to you and your office for agreeing to meet with our team to discuss the Auditor's Advisory No. 133 dated January 16, 2020. As you are aware, aside from the user department's project manager, none of the departments explicitly permitted under the County Code of Ordinances ("Code") to discuss this procurement would meet with our small, minority, and women-owned Broward County Business Enterprise (CBE) to discuss the matter at issue. Thus, we submit this fourth letter in order to properly respond to the County Auditor's 2nd Advisory No. 135, dated March 4, 2020, regarding RFP #**GEN2119422P1**.

Based on discussions with your office, our due diligence, and the Auditor's written statement that rejecting this bid would be extremely harmful public policy and an undue burden on vendors, we remain confident in the positions set forth in our prior three letters—dated February 4, February 27, and February 28—that there is a cure for this procurement that would move us forward to negotiation of this contract.

#### Scope of Work

The auditor suggests the scope of work for the solicitation was written in a manner which did not allow for sufficient accountability. We disagree and would argue that the scope of work for each category was thoughtful, extremely detailed, and laid out to encompass components of a well-defined communication and marketing program. This is why the experienced bidders that had appropriate knowledge and experience of the Penny Surtax all provided pricing that was consistent with variations regularly seen in the county procurement process. As stated previously, the inexperience or lack of sophistication by a vendor in properly pricing a multiyear proposal should not render an entire procurement void, thus negatively impacting those vendors who properly completed their bid package and pricing. It is not in Broward County's interest to award a bid to a firm that promises to provide work for an impossible fee,



nor is it standard practice for the Office of the Auditor to attempt to get into the minds of vendors to speculate as to why they bid on a project with particular pricing, as was done here.

For decades, the county has engaged in flat fee agreements with firms that provide an array of services, including lobbying (non-legal) and advertising services. In fact, ADEPT is currently working within a flat fee structure with Broward County for the Census 2020 Marketing Contract. As part of this arrangement, ADEPT submits work authorizations, weekly and monthly reports, conducts weekly in-person meetings with county staff, and maintains daily communication over telephone and e-mail. We strive to offer the highest quality of service and to go above and beyond, not just because we are providing services to clients, but because it is what Broward County deserves.

The Auditor—in his own words from Advisory No. 135—states that any perceived lack of accountability in flat fee pricing could be cured through the negotiation process, remedying any accountability concerns. **We agree that negotiations should be the next step in this process.**

#### Estimated Budget

The typical procurement allows for the top ranked vendor to attend scheduled Sunshine negotiation meetings with the purchasing division, county auditor, and the user department for the particular contract. These meetings allow for transparent negotiations to take place when determining pricing, scope, deliverables, and any other relevant details.

It has clearly been documented that the county has the budget that was provided to all vendors during the question and answer period of the procurement. Furthermore, as Broward residents, constituents and voters for the Penny Surtax itself, we understand that the county has the budget for these services and should not engage in further delay by postponing this contract. Our residents, business community, local media, and other stakeholders are already questioning projects, revenues, and the county's ability to implement this aggressive program. We need to begin our job of communication and marketing, pursuant to the selection committee ranking us number one during the December 4, 2019 combined initial and final evaluations meeting for categories one, three, and four.

#### Scoring by Selection Committee Members

To suggest that the selection committee members' rankings were discordant for some vendors is factually untrue. These rankings were made by the county's most qualified experts in communication and marketing, each of whom are professionals at the highest levels of county administration. The selection committee present on December 4, 2019 consisted of Gretchen Cassini, Assistant County Administrator, Debbie Etienne, Office of Emergency Services and Regional Communications, Margaret Stapleton,



Director, Office of Public Communications, Gwendolyn Belton, Transit Manager, Transit Division, and Greg Meyer, Public Information Officer, Aviation Department.

### Sanctity of the Procurement Process

The auditor has taken an unprecedented step in inserting his office into procurement matters and changing the prescribed solicitations schedule. Please do not allow the procurement wheels to somehow again fall off. Internally, apparently high level staff have questioned reconsidering this bid presenting the commission with a motion to reject all proposals. If we follow the standard competitive procurement process and proceed to the standard negotiation process, we are confident that the county will be provided the levels of accountability to which it is entitled and deserves.

In the Auditor's email addressed to each County Commissioner and his or her staff (and copying your office) dated Thursday, March 5, 2020 at 10:34 AM, he stated the following:

***“I am concerned about instances of needing to reject all proposals due to problems in the solicitation. This is simply not good for the proposers who have spent significant time putting together their proposals.”***

The auditor goes on to state that his office “can help alleviate these situations by working with Purchasing to receive draft RFPs before they are presented to the County Commission for approval or otherwise issued.” While this message potentially bodes well for future RFPs, the communication does not explicitly state whether or not he seeks to apply those good governance principles to the RFP at the center of this letter and Agenda Item 52. The procurement process, as followed in this case, provides extensive protections of the county's interests. By creating an environment of unpredictability or reliability in the county's process, vendors will turn away from participating in future RFPs. For small and medium local businesses, the time and effort invested in pursuing the county's business will become too risky.

As referenced in our previous correspondence, ADEPT developed a strategic and detailed approach to each category of services in the proposal, along with key team differentiators that led to the evaluation committee ranking ADEPT No. 1 for each of the categories where we submitted (categories 1, 3, and 4). If the county were to re-advertise the entire bid, our unique approach, pricing, strategies, team members, innovative techniques, work product, and policy knowledge--along with the work product of all other proposers--could be easily viewed by competitors and included within those competitors' future proposals while being advertised as their own. The reason why bid submittals are not typically posted to the County's website until after the ranking recommendation is to protect against exactly that concern.

In addition to all of the reasons we've thus far expressed in writing, this entire matter ultimately represents a fundamental issue of public policy. While it happens to be this particular procurement this time around, by moving forward with the Auditor's recommendation, the County would ultimately be



giving its blessing to other county agencies who seek to arbitrarily change the rules set forth in the Broward County Code of Ordinances governing the procurement process. To do this even after the bids have been ranked and made public for nearly two months just adds insult to injury.

Process matters. We should not take any action inconsistent with that principle or the principles of transparency and good governance. In fact, it was only two weeks ago when the integrity of the procurement process was previously addressed to the Commission. At that time, Commissioners were rightfully concerned about undermining the sanctity of the procurement process, and they all agreed that it was not good practice to take action that would erode the confidence vendors have in the integrity of procurement in Broward County government.

ADEPT's Marketing and Communications Services team is dedicated to an over 75% CBE goal compliance. In fact, our team is led by a Hispanic, women-owned certified CBE company and we have selected three African American vendors, and one LGBTQ+ vendor among others to support in this effort.

In conclusion, ADEPT was the number one ranked firm, with **zero** protests from any other vendor. We have spent countless hours preparing this bid over the past year along with our years of support for transportation and infrastructure improvements in our community and have avoided participating in other potentially lucrative RFPs because with no protests we were led to believe that this one was successful. Let's not waste any more time. We are eager to begin our partnership with Broward County for this extremely special opportunity to educate our community on the implementation of the Mobility Advancement Program and the positive changes it is creating for Broward County's entire transportation network.

In sum, we respectfully request that the competitive procurement process is honored here by allowing us to move forward to negotiations on the communication and marketing contract.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stephanie Rosendorf-Diaz'.

Stephanie Rosendorf-Diaz, Esq.  
General Counsel

A handwritten signature in black ink, appearing to read 'Dana Pollitt'.

Dana Pollitt  
Managing Partner

Cc: Brenda Billingley, Purchasing Director  
Oswaldo Casco, Small Business Liaison  
Sean McSweeney, Project Manager, Office of Public Communications