



DATE: March 02, 2020

TO: Brenda J. Billingsley, Director, Purchasing Division

THRU: Alan W. Garcia, P.E., Director, Water and Wastewater Services

FROM: Jonathan K. Allen, Director, Business Operations Division

PROJECT TITLE: Backflow Certification Services (2 party agreement)

REQUISITION NO. TBD

### SOLE SOURCE/SOLE BRAND REQUEST

I. REQUEST: Provide a description of the features of the product/service or Scope of Work.

Water and Wastewater Services Business Operations Division (WWS-BOD) requests approval of a two-party agreement through the only reasonable source, Backflow Solutions, Inc. (BSI) to establish a contract for a subscription based service that includes fee collection for backflow re-certifications performed by BSI on behalf of the County.

BSI offers a subscription service that provides for recording, maintaining, sending notifications and collecting fees for regulatory cross connection and backflow preventer testing services. All testable backflow preventer assemblies must be tested on an annual basis to ensure that there is no leakage or backflow of contaminants or pollutants that could enter the County's public water supply system. This testing requirement and confirmation of working backflows is a matter of regulatory compliance as per Broward County's Ordinance Ch. 34 - Water and Sewers, Article IX. - Cross Connection Backflow Prevention Ordinance and Florida Department of Environmental Protection (FDEP) regulations (Rule 62-555, F.A.C).

II. JUSTIFICATION: Please check all boxes that describe your reason(s) for determining that only one source or brand is reasonably available.

#### Only Sole Source/ Uniqueness

- Proprietary Item - this vendor/source has the only rights to provide this service or commodity. A letter from the manufacturer or authorizing entity is included in this request.
- Technology Improvements - updates or upgrades to an existing system, software, software as a service (SaaS), hardware purchases.
- Engineering Direction - engineering drawing or specification identifies product; "no substitutes or equivalents will be acceptable."
- Only qualified supplier - reliability and maintainability of the product or service would be degraded unless specified supplier is used; may void warranty. This request includes a copy of the current warranty information.
- Other/or Additional information - the County requires this sole source, sole brand purchase for the following reasons:

**Business Case (One/Most Reasonable Source or One/Most Reasonable Brand)**

- Operational Compatibility - replacement parts from alternate suppliers are not interchangeable with original part and causes equipment incompatibility. Previous findings and/or documentation is included with this request.
- Ease of Maintenance - maintenance or retooling prohibits competition. Section III, Comparative Market Research includes estimated costs associated with changing current source and/or brand.
- Follow-On - potential for continued development or enhancement with same supplier and eliminates costs incurred by using different supplier. Section III, Comparative Market Research includes estimated costs for replacing current or existing system.
- Complies with existing community and safety standards, and/or laws, rules, and regulations.
- Exempted from the Procurement Code - per Section 21.18 of Broward County Administrative Code.
- Other/or additional information - using this sole source, sole brand purchase benefits the County for the following reasons:

WWS-BOD moved from a paper based system to a subscription service with BSI in 2013. Using this subscription system, WWS-BOD and licensed professionals entered all known customer backflows into the BSI system and have been utilizing the BSI system for managing re-certifications, tracking compliance, and responding to periodic Public Records Requests.

WWS-BOD has approximately 6,000 backflow preventers in use throughout the County. The paper system used by WWS-BOD staff prior to 2012 was not efficient. It did not provide a verifiable and/or auditable process to ensure that the agency was following both the County and State regulations. Using the BSI subscription service, WWS-BOD pays \$495 annually. This fee is a flat fee and is not a sliding scale based on the number of backflows/cross-connections within the municipality. BSI's service includes but is not limited to multiple advance customer notifications to perform the required annual tests, immediate notification to WWS-BOD of customers that are non-compliant, and an auditable/verifiable data base for licensed testers and the calibration/certification information of the test equipment used for each test performed. All information is available to WWS-BOD 'real-time' when inquiring in the BSI system. While utilizing the BSI system, WWS has been able to provide auditable compliance data/information to both the County and State Regulatory Agencies, as requested. The BSI system has allowed WWS to regularly perform internal audits to ensure that the agency complies.

WWS-BOD is requesting this two-party agreement to allow BSI to collect the County's re-certification fee. The re-certification fee is based on the County Rate Resolution that is established by the Board of County Commissioners. The requested agreement would define the subscription services provided by BSI, define the process for BSI collecting and remitting to WWS-BOD the Backflow Re-certification fee, and any administrative handling fee. This requested two-party agreement is similar to agreements in place between BSI and other local municipalities (City of Pompano Beach, City of Coral Springs, and City of Fort Lauderdale).

This agreement will provide added efficiencies already realized by utilizing the BSI system:

- Consolidate the billing/collection process for the backflow preventer test. The combined fee will eliminate the customer confusion when the customer's bill reflects the re-certification fee one month after the service was performed. Many customers think they are receiving a duplicate charge since they paid an outside plumber to perform the test. The consolidated billing/collection process for this test is more efficient for the customer and WWS.
- Utilize staff resources more effectively and eliminate the need for staff to manually enter the re-certification information into the Customer Information System (CIS/Peace Billing System) and collect the re-certification fee on all customer bills. More than 6,000 devices are tested annually. It is anticipated that the staff resources spent on performing manual entries would be significantly reduced.
- Enhance WWS-BOD's customer service and responsiveness.
- Establish an efficient and customer-friendly process for billing and collecting the required WWS-BOD

Backflow Re-Certification Fee.

III. COMPARATIVE MARKET RESEARCH: Provide a detailed source or market analysis for justification of sole source/brand or most reasonable source (attach extra sheets as needed).

Estimated project value: NA

Contract length (if applicable): 5-7 years

Expenses to date: \$495.00 annually

Has this commodity or service been previously provided to the County?  Yes  No

If yes, when and by whom? Backflow Solutions Inc.

How was item/service procured? Subscription service/P-card

What is the current contract (MA) or purchase order number? N/A

If this is a sole brand, is there an "authorized" dealers list?  Yes  No

Cost/Benefit Analysis: What would the cost be to utilize an alternate vendor or source? This explanation should include the savings and/or additional costs to the County by not using the preferred vendor or source. Attach additional sheets if needed.

By way of a Request for Information (RFI), WWS-BOD performed a market research for other potential web based backflow/cross connection data management services. RFI No. N1311411F1, Backflow Management Services requested information and demonstrations (webinars), if available, on other web-based systems. After review of the information received, WWS could not find any other company that could fully meet WWS' requirements. Attached is the scoring Matrix.

Additional peer inquiries were made and WWS found that 18 municipalities in the tri-county area utilize BSI as a subscription service for their backflow management. Three (3) local municipalities have agreements in place similar to WWS-BOD's request. These municipalities include the City of Pompano Beach, City of Coral Springs, and City of Fort Lauderdale). Contracts are available for reference, if needed.

**CERTIFICATION:** I have thoroughly researched the sole source or sole brand justification and fully understand the implications of Section 838.22 of the Florida Statutes:

(2) "It is unlawful for a public servant, with corrupt intent to obtain a benefit for any person or to cause unlawful harm to another, to circumvent a competitive bidding process required by law or rule by using a sole source contract for commodities or services."

(5) "Any person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084"

Keith W. McCawley		March 2, 2020
REQUESTOR/EVALUATOR (PRINT)	REQUESTOR/EVALUATOR (SIGN)	DATE
Jonathan K. Allen		2/2/20
DEPT/DIV DIRECTOR OR DESIGNEE (PRINT)	DEPT/DIV DIRECTOR OR DESIGNEE (SIGN)	DATE

The Purchasing Agent has reviewed the request and has completed the required due diligence per the Procurement Code Section(s) 21.34 and 21.35. The Purchasing Agent recommends the following:

Sole Source   
  Sole Brand   
  Reasonable Source   
  RFI attached   
  Rejected  
 Request Authorization to Negotiate

**Additional Information:**

Water and Wastewater Services Business Operations Division (WWS-BOD) requests an Only Reasonable Source designation for Backflow Solutions, Inc. (BSI) to establish a contract for a subscription based service that includes fee collection for backflow re-certifications performed by BSI on behalf of the County.

The re-certification fee is based on the County Rate Resolution that is established by the Board of County Commissioners. Other eighteen (18) municipalities from the tri-county area utilize BSI as a subscription service for their backflow management and three (3) local municipalities have agreements in place similar to WWS-BOD's request (City of Pompano Beach, City of Coral Springs, and City of Fort Lauderdale). Please see attached Agreements.

Each Municipality has personalized, secure, multi-user access to all test reports with real-time data. Once logged in, the user can search, sort, and export any data into Excel format. All non-compliant facilities can also be reviewed in real-time.

Based upon these considerations, the Agent of concern supports the approval of a "Only Reasonable Source" designation and recommends negotiating a two-party agreement with Backflow Solutions, Inc. (BSI) in order to add the requested services to the currently utilized services. This is the best solution when alternates are considered.

**Purchasing Agent Signature:** ECATERI DAVID CLEMENTE  
 Digitally signed by DAVID CLEMENTE  
 Date: 2020.08.19 15:05:52 -04'00'  


y signed by ERINA SULI-WOLF  
 2020.08.19 35 -04'00'  
**Date:** 08.19.2020

**APPROVAL AUTHORITY**  
 REASON/SUGGESTED ACTION (IF DISAPPROVED):

**Signature:** GLENN MARCOS  
 Digitally signed by GLENN MARCOS  
 DN: dc=city, dc=broward, dc=bc, ou=Organization, ou=BCC, ou=PU, ou=Users, cn=GLENN MARCOS  
 Date: 2020.09.22 18:03:28 -04'00'  
**Date:** 9/22/20

**BACKFLOW MANAGEMENT MATRIX**

Date RFI was advertised: January 13, 2015		Vendor Name:						
No.	Questions	XC2 Software LLC	Backflow Solutions Inc.	Formlink Systems	Tokay Software	Aqua Backflow, Inc	Software AG, USA Ins.	
1	Familiar w/BC Ordinance?	Yes	Yes	No	Yes	Yes	Yes	
2	Notify customers of annual testing and track applicable licenses?	Yes	Yes	Yes	No	No	No	
3	Type of software application?	Online or Software	Online	Online	Online or Software	Online	Online	
4	Provide a webinar?	Yes	Yes	Yes	Yes	Yes	Yes	
5	Currently use an online application?	Yes	Yes	Yes	Yes	Yes	Yes	
6	Information storage capacity?	One billion	Unlimited	Full history	Unlimited	Unlimited	Unlimited	
7	Minimum of two notifications?	Six notices	Unlimited notices	Yes	Yes	Yes	Yes	
8	Notices be sent US mail and email?	Yes	Yes	Yes	Yes	Yes	Yes	
9	Transmit notices to BC?	Yes	Yes	No	Yes	Yes	Yes	
10	BC have access to historical notices?	Did not answer	Unlimited access	No	Yes	Yes, limited time	Yes	
11	Capable of submitting data electronically and in Real Time?	Yes	Yes	Less than 2 minutes	Next Day	No	Yes	
12	Use ASSE approved standards for Passing results?	Yes	Yes	Yes	No, possibly be configured	Yes	No, possibly be configured	
13	Allow customization of database and/or reports (i.e., FDEP, FDOH)?	Yes	Yes	Yes	Yes	Yes	Yes	
14	Is database configurable for additional reporting fields?	Can add in the future	Yes	Requires some configuring	Yes	Yes	Yes	
15	Track non-compliant customers?	Yes	Yes	Yes	Yes	Yes	Yes	
16	Track backflow waivers?	Possibly	Yes	Yes	Yes	Yes	Yes	
17	Ability to deactivate devices?	Possibly	Yes	Yes	Yes	Yes	Yes	

BACKFLOW MANAGEMENT MATRIX

No.	Questions	XC2 Software LLC	Backflow Solutions Inc.	Formlink Systems	Tokay Software	Aqua Backflow, Inc	Software AG, USA Ins.
18	Provide a toll-free # for CS?	Yes	Yes, 24 hours	Yes	8:00 AM to 8:00 PM	Yes	Yes, 24 hours
19	Provide similar or same services to other entities?	4 references	164 agency references	1 reference	Over 4K users	5 references	1 reference
	Percentage Score	75%	100%	75%	75%	75%	75%
	Evaluation Comments	Did not answer # 10, not sure if they can track waivers or deactivate devices, no reports housed in the system, unsure of length of time for CS.	Meet and/or exceeds BC expectations	Doesn't offer notice archival, not sure if they can track non-compliant customers, Not Real Time, requires some configuring, minimal time for CS.	Doesn't offer Real Time, offers Customer Support from 8:00 AM to 8:00 PM, not 24/7/365. Does not track certifications/licenses.	Doesn't provide Real-time nor track certifications/calibrations/licenses. Can't send notifications from the program	Does not utilize ASSE Standards but can possibly be configured. Does not track calibrations or licenses.

**LEGEND:**

- ASSE - American Society of Safety Engineers
- BC - Broward County
- CS - Customer Services
- FDEP - Florida Department of Environmental Protection
- FDOH - Florida Department of Health
- RFI - Request for Information