



Finance and Administrative Services Department

PURCHASING DIVISION

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

Certified Mail No. 7005 3110 0002 8833 0074

September 4, 2020

Mr. Joseph M. Goldstein
Shutts & Bowen, LLP
200 East Broward Boulevard, Suite 2100
Fort Lauderdale, FL 33301

Re: Objection - Request for Proposals (RFP) PNC2119955P1 - General Planning Consultant Services for the Transportation Department

Dear Mr. Goldstein:

We are in receipt of your premature objection letter dated June 12, 2020, submitted on behalf of your client, CDM Smith, Inc. ("CDM"), noting discrepancies in preliminary scoring related to local preference eligibility for first ranked firm, WSP USA, Inc. ("WSP") and location points awarded to second-ranked firm, CTS Engineering, Inc ("CTS"). Section 21.84.f. of the Procurement Code provides in relevant part that "If a vendor believes the Proposed Recommendation of Ranking is unfair, incorrect, or there is significant new information that should be taken into consideration, the vendor shall provide the objection or information in writing to the Purchasing Director within three (3) business days from the posting of the Proposed Recommendation of Ranking." Your objection letter was filed before the Proposed Recommendation of Ranking was posted on Purchasing's website.

Although your objection was prematurely filed, the following response will summarize your assertion points and explain my determination based upon the Procurement Code and established Committee procedures.

Objection Assertion No. 1:

County staff incorrectly applied the "Local Evaluation Factor and Local Preference". Your assertion outlines two areas of discrepancy, including:

1. The County's assignment of twenty-five location points to **CTS Engineering** under the Location factor was inconsistent with the terms of the Solicitation because it did not have a headquarters within Broward County at least six months before the solicitation opening date; and
2. The County's application of the Local Preference to **WSP** was inconsistent with the terms of the Solicitation and County Ordinance because WSP does not have a Broward business tax receipt for its local office issued at least one year prior to the solicitation opening date.

Response No. 1:

The County's solicitation requested responses and is seeking up to two qualified firms to provide general planning consultant (GPC) services for the Transportation Department in various areas of program support. This RFP solicitation did not include services procured pursuant to Section 287.055, F.S.; therefore, this procurement is not subject to the requirements of the Consultant's Competitive Negotiation Act (CCNA).

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The Evaluation Criteria requested firms submit an RFP-RFQ-RLI Location Attestation Form and provide the following information pertaining to location points that reads, in relevant part, as follows: “A vendor with a principal place of business location (also known as the nerve center) within Broward County for the least six months, prior to the solicitation submittal, will receive five points; a Vendor not meeting all the local business requirements will receive zero points.” [RFP No. PNC2119955P1, pages 40-41].

A. On February 12, 2020, CTS responded to Request for Proposal (RFP) No. PNC2119955P1, General Planning Consultant Services for the Transportation Department. According to CTS’s Location Attestation Form submitted with its proposal, CTS attested that its principal place of business (also known as the “nerve center”) is in Fort Lauderdale, FL 33309 (Broward County).

As part of the Purchasing Division’s verification process, the State of Florida’s Division of Corporations website (www.sunbiz.org) was reviewed to confirm CTS’s information. As per the Location Attestation Form, in order for a firm to qualify for Location points, it must have a principal place of business within Broward listed on Sunbiz for at least six months before solicitation opening. According to CTS’s current Sunbiz Registration, the firm is an active firm with the same principal business location address as attested to in the RFP response. However, upon additional staff review, it is noted and confirmed that a “changed date” to CTS’s principle address did occur on November 12, 2019 in the Sunbiz entity detail and thus does not meet the RFP’s requirements for the Location points. CTS Engineering’s “principal place of business” on Sunbiz, as verified by CTS’s 2019 Annual Report, was listed as being in Doral (which is in Miami-Dade County) up until November 12, 2019, which is less than six months. This new information is deemed significant and will be brought to the EC for their review and consideration

B. On February 12, 2020, WSP also responded to Request for Proposal (RFP) No. PNC2119955P1, General Planning Consultant Services for the Transportation Department. According to WSP’s Local Preference and Tie Breaker Certification Form submitted with its original proposal, WSP certified that its local office is in Pompano Beach, FL (Broward County). Additionally, WSP provided with its submittal a 2020 Broward County Local Business Tax Receipt (“tax receipt”). The “Business Opened” date on the tax receipt is January 21, 2020. However, in response to the May 4, 2020 draft Director of Purchasing Memorandum (i.e. 48-hour review memo), WSP provided to Purchasing on May 6, 2020 the firm’s 2018 & 2019 tax receipts that confirm its prior local office was in Fort Lauderdale, FL (Broward County) with a corresponding “Business Opened” date of November 8, 2017. Submitting the additional earlier business tax receipts is permissible under the 48-hour review period and thus this information did not have to be received with WSP’s original submittal. Additionally, the RFP-RLI-RFQ Local Preference and Tie Breaker Certification Form states: “If not provided with submittal, the Vendor must submit within three business days of County’s request for evaluation of Local Preference.” Since WSP provided its 2018 Broward business tax receipt in response to the May 4, 2020 draft Director of Purchasing Memorandum, WSP meets the requirements of having a valid Broward County local business tax receipt, and being in existence, for at least one year prior to the solicitation opening. Therefore, WSP qualifies for application of the Local Preference Ordinance, thereby placing its score within 5% of the highest scored non-local firm, i.e. CDM Smith, Inc. Therefore, the assertion that WSP “does not have a Broward business tax receipt for its local office issued at least one year prior to the solicitation opening date” is not factually supported.

Objection Assertion No. 2:

“If scored and applied correctly, CDM remains the No. 1 ranked vendor.”

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Response No. 2:

The County's Local Preference Ordinance was properly applied. Since this was a non-CCNA solicitation, local preference applied. Therefore, local firms that were within 5% of the total score of the non-local firm were subsequently ranked higher per the Local Preference Ordinance. Although the preliminary scoring results placed CDM as the highest initially scored and ranked No. 1 firm, the correct application of the Local Preference Ordinance resulted in CDM no longer being the No. 1 ranked firm based on local preference. Therefore, this assertion is not factually supported.

Objection Assertion No. 3:

“CTS Engineering is not entitled to the Evaluation Points for Location.”

Response No. 3:

As previously addressed in response to Assertion No. 1, and upon additional staff review, it is noted and confirmed that a “changed date” to CTS’s principle address did occur on November 12, 2019 in the Sunbiz entity detail and thus does not meet the RFP’s requirements for the Location points. CTS Engineering’s “principal place of business” on Sunbiz, as verified by CTS’s 2019 Annual Report, was listed as being in Doral (which is in Miami-Dade County) up until November 12, 2019, which is less than six months of the RFP’s February 12, 2020 solicitation end date. Therefore, as previously stated, this new information is deemed significant and will be brought to the EC for their review and consideration.

Objection Assertion No. 4:

“WSP is not entitled to the Local Preference.”

Response No. 4:

The County's Local Preference Ordinance was properly applied. Since this was a non-CCNA solicitation, local preference applied. Therefore, local firms that were within 5% of the total score of the non-local firm were ultimately ranked higher per the Local Preference Ordinance. As stated above in response to Assertion No. 1, in response to the May 4, 2020 draft Director of Purchasing Memorandum (i.e. 48-hour review memo), WSP provided to Purchasing on May, 6, 2020, the firm's 2018 & 2019 Broward County business tax receipts that confirm its prior local office was in Fort Lauderdale, FL (Broward County) with a “Business Opened” date of November 8, 2017. Submitting the additional earlier business tax receipts is permissible under the 48-hour review period and thus this information did not have to be received with WSP’s original submittal. To reiterate, the RFP-RLI-RFQ Local Preference and Tie Breaker Certification Form states in relevant part that: “If not provided with submittal, the Vendor must submit within three business days of County’s request for evaluation of Local Preference.” Local preference was correctly applied based upon staff’s receipt of WSP’s 2018 and 2019 business tax receipts confirming its prior local office was in Fort Lauderdale. Since WSP met the requirement of having a valid Broward County local business tax receipt, and being in existence, for at least one year prior to the solicitation opening, WSP qualifies for application of local preference under the County’s Local Preference Ordinance. Therefore, the assertion that “the County’s application of the Local Preference to WSP was inconsistent with the terms of the Solicitation” is not factually supported.

Determination:

Upon review of the procurement record, correspondence received by parties to the objection, and the proceedings of the EC, I find that CDM’s Assertions Nos. 1B, 2, and 4 do not represent new or significant information per Section 21.84.f of the Procurement Code. Assertions Nos. 1B, 2 and 4 of

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CDM's objection letter dated June 12, 2020. Evaluation and scoring of firms on these issues was conducted appropriately and within the established guidelines, practices, and procedures set forth in the Broward County Procurement Code and existing written guidelines. However, Assertion No. 3 is based on significant new information that should be taken into consideration by the EC. As such, the EC will be reconvened to review new significant information pertaining to evaluation criteria location points for CTS. Such information will be presented to the EC for its consideration in order to ratify the ranking or to reorder the list per Section 21.84.h of the Procurement Code.

Sincerely,

GLENN
MARCOS

Digitally signed by GLENN MARCOS
DN: dc=cty, dc=broward, dc=bc,
ou=Organization, ou=BCC, ou=PU,
ou=Users, cn=GLENN MARCOS
Date: 2020.09.04 16:07:09 -04'00'

on behalf of
Brenda J. Billingsley

Brenda J. Billingsley, Director
Purchasing Division

BJB/mr/gm/lg

Attachment

1. Shutts & Bowen, LLP Objection Letter dated June 12, 2020

c: Tara Crawford, Senior Planner, Transit Division, Transportation Department (Project Manager)
Glenn Marcos, Assistant Director, Purchasing Division
Connie Mangan, Purchasing Manager, Purchasing Division
Mark Roberts, Purchasing Agent - Senior, Purchasing Division
Fernando Amuchastegui, Assistant County Attorney, Office of the County Attorney