



Broward County

Legislation Text

File #: 20-2324, Version: 1

Broward County Commission Regular Meeting

Director's Name: George Tablack

Department: Finance and Administrative Services **Division:** Purchasing

Information

Requested Action

MOTION TO APPROVE final ranking of qualified firms for Request for Proposals (RFP) No. PNC2119955P1, General Planning Consultant Services, for the Transportation Department; the ranked firms are: 1 - WSP USA Inc.; 2 - CTS Engineering, Inc.; 3 - Kimley-Horn and Associates, Inc.; 4 - CDM Smith Inc.; 5 - Whitehouse Group Inc.; 6 - Tindale-Oliver & Associates, Inc.; 7 - H.W. Lochner Inc; 8 - Kittelson & Associates, Inc.; and 9 - The Corradino Group, Inc.

Why Action is Necessary

In accordance with the Broward County Procurement Code, Section 21.84.h, Selection Committee and Selection/Evaluation Committee Composition, approval of final ranking of qualified firms requires Board approval when an objection or protest has been filed.

What Action Accomplishes

Approves the Evaluation Committee's recommendation of the final ranking of qualified firms.

Is this Action Goal Related

Yes

Previous Action Taken

None.

Summary Explanation/Background

THE PURCHASING DIVISION AND THE TRANSPORTATION DEPARTMENT RECOMMEND APPROVAL OF THE ABOVE MOTION.

This item supports the Board's Value of "Cooperatively delivering an efficient and accessible regional intermodal transportation network."

The procurement was solicited to engage up to two qualified firms to provide general planning consulting services to support the Transportation Department.

On January 7, 2020 (Item No. 39), the Board approved Request for Proposals (RFP) No. PNC2119955P1 for General Planning Consultant Services for the Transportation Department. The RFP was advertised and, at the time of the opening deadline on February 12, 2020, nine firms submitted proposals.

On May 7, 2020, an Initial Evaluation Committee meeting was held. The Evaluation Committee determined that all nine firms were both responsive and responsible to the RFP requirements and voted in favor of them advancing to be numerically scored and ranked by the Evaluation Committee.

On June 3, 2020, a Final Evaluation Committee meeting was held. The Evaluation Committee heard nine vendor presentations and scored each vendor. Upon Purchasing's review and tabulation of the score sheets, the Evaluation Committee's non-voting Chair recessed the meeting until a time certain continuation on June 4, 2020 to allow Purchasing staff additional time to apply local preference and tie breakers.

On June 4, 2020, the Final Evaluation Committee meeting was reconvened to rank the firms. Purchasing first announced the total score results based on local preference application; however, in order for the Evaluation Committee to recommend the top two ranked firms, the tie between the two first-place firms, WSP USA Inc. and CTS Engineering, Inc., was broken in accordance with the Broward County Procurement Code, Section 21.31.d.; a re-vote or re-assessment of only the tied vendors. After the tiebreaker, the Evaluation Committee named WSP USA Inc. as the first-ranked firm and CTS Engineering, Inc. the second-ranked firm (Exhibit 1).

On June 12, 2020, the Director of Purchasing received a prematurely filed objection letter from Shutts & Bowen LLP (Shutts) on behalf of CDM Smith Inc., the fourth-ranked firm. The objection letter noted discrepancies in local preference eligibility for first-ranked firm, WSP USA Inc. (WSP), and location points awarded to the second-ranked firm, CTS Engineering, Inc. (CTS) (Exhibit 3).

On July 14, 2020, the Director of Purchasing received correspondence from Moskowitz, Mandell, Salim & Simowitz, P.A. on behalf of CTS. The letter challenged the assertions made in the Shutts objection letter as to CTS's eligibility as a locally headquartered business in Broward County, as well as its principle business location as defined by Florida's Department of State Division of Corporations (Sunbiz) (Exhibit 4).

The Purchasing Division, on behalf of the Office of the County Attorney, subsequently asked questions of CTS regarding its principal place of business.

On August 7, 2020, the Office of the County Attorney reviewed answers to questions posed to CTS and opined that CTS meets the "nerve center" test under *Hertz Corp. v. Friend*, as the firm's answers indicate that CTS officers direct, control, and coordinate its activities from Broward County and that CTS maintained its principal place of business in Broward County for at least the one-year period immediately preceding the date on which this solicitation was advertised (Exhibit 5).

On September 4, 2020, the Director of Purchasing issued a response to the Shutts objection letter. The letter stated that upon review of the solicitation response, supporting documentation, procurement record, correspondence received by parties to the objection, and the proceedings of the Evaluation Committee, the assertions made pertaining to WSP's eligibility for local preference application did not represent new or significant information for the Evaluation Committee to consider. However, the assertion that CTS was not entitled to the evaluation points for location was

considered, at the time, and the new information would be provided for consideration of the Evaluation Committee (Exhibit 6).

However, in light of the new information pertaining to the Board's past discussion and recent codification of new local preference criteria (enacted on June 2, 2020) eliminating Sunbiz as a dispositive factor in local preference, the Evaluation Committee reconvened meeting was cancelled, and staff subsequently requested direction from the Board for final determination in the matter.

On December 1, 2020 (Item No. 80), the Board approved and directed staff to apply the most recently approved Local Preference Ordinance criteria, for the assignment of location points, for RFPs that opened between December 4, 2019 through June 2, 2020 and that are currently in the evaluation process. RFP No. PNC2119955P1 General Planning Consultant Services for the Transportation Department, opened within this timeframe on February 12, 2020.

On December 8, 2020, based on the Board's direction, the Director of Purchasing issued a partial rescission to the original September 4, 2020 objection response letter stating the prior "Sunbiz" test, which was in place when the solicitation was advertised, to determine location points for CTS will not be used (Exhibit 7). As such, the original assignment of evaluation criteria location points for CTS is upheld based on the most recently codified Local Preference Ordinance criteria (Exhibit 2).

The Evaluation Committee's proposed recommendation of ranking was posted on the Purchasing Division website on December 9, 10 and 17, 2020, which provided an opportunity for any proposer or interested party to present any new or additional information regarding the responsibility of the proposers. No formal objection was received during this time.

The Evaluation Committee's final recommendation of ranking was posted on the Purchasing Division website from December 18 - 24, 2020, which provided an opportunity for any aggrieved proposer to file a formal protest. No protest was received during this time.

In accordance with Broward County Procurement Code, Section 21.84.h, after the Final Recommendation of Ranking is posted, if a protest or objection has been filed, the Director of Purchasing shall present the ranking/evaluation to the Board for approval. The Board, by majority vote, has the option to either: (1) approve the Committee's ranking/evaluation recommendation; (2) reject all submittals; or (3) send the ranking/evaluation back to the Committee to consider new significant information and either ratify the ranking/evaluation or reorder the list. The Board, by super majority vote, has the option to re-rank/re-evaluate the shortlisted firms following presentations to the Board.

Additional supporting documentation provided to the Evaluation Committee and additional vendor correspondence regarding this procurement can be found on Broward County's Purchasing Division website at <http://www.broward.org/Purchasing/Pages/Repository.aspx>.

Source of Additional Information

Brenda J. Billingsley, Director, Purchasing Division, (954) 357-6070

Fiscal Impact

Fiscal Impact/Cost Summary

There is no fiscal impact.