

Mark J. Stempler
Shareholder
Board Certified Construction Lawyer
LEED Green Associate
Phone: 561.820.2884 Fax: 561.832.8987
mstempler@beckerlawyers.com



Becker & Poliakoff
625 N. Flagler Drive
7th Floor
West Palm Beach, FL 33401

February 28, 2023

Via Email: rgleason@broward.org

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

**Re: RFP No. PNC2124755P1 - 2023 Port Everglades Master/Vision Plan
Update ("RFP")**

Dear Mr. Gleason:

As you know, we represent Hatch Associates Consultants, Inc. ("Hatch") regarding the above-referenced RFP. Hatch's Objection to the Recommendation of Ranking was submitted to you on November 23, 2022 and remains pending. We are in receipt of the Purchasing Division's correspondence to AECOM from February 16, 2023, and AECOM's response to same on February 24, 2023. In sum, the information sought by the Purchasing Division, and the limited information supplied by AECOM, has no bearing on and is not determinative of the issues raised in Hatch's Objection.

On February 16, 2023, the Purchasing Division submitted eight (8) sections of questions to AECOM. A copy of the questions as received from the Purchasing Division is attached (the "Questionnaire"). The questions raised in Section 1 of the Questionnaire are irrelevant to the evaluation of AECOM's proposal. It does not matter why AECOM selected the "Locally Based Subsidiary" category for local certification in its proposal. What matters is that AECOM stated it was a Locally Based Subsidiary despite contradicting statements its own RFP, and despite the fact it did not meet the criteria established for that designation.

Similarly, Category No. 2 asks whether AECOM reviewed certain paragraphs of the RFP specifications. Whether AECOM did or did not is irrelevant. It is presumed to have understood the RFP's specifications and requirements. Otherwise, AECOM could have raised questions during the appropriate time during the solicitation process. The questions raised in Category No. 4 are irrelevant for the same reasons.

Robert Gleason, Director
February 28, 2023
Page 2

The answer to the question raised in Section No. 3 of the Questionnaire is something the Purchasing Division should already know. It is unclear why this question would be posed.

The questions raised in Section No. 5 of the Questionnaire are pertinent, but ultimately without merit. AECOM did not respond to the Purchasing Director's Memorandum, and opted to accept Purchasing's improper designation of a Locally Based Subsidiary. Why AECOM did not respond to the Memorandum does not matter in the evaluation of the RFP or Hatch's Objection. Though its lack of response in telling of its aim to be designated as a Locally Based Subsidiary.

As to Section No. 6 of the Questionnaire, it is unclear why which key terms AECOM felt were left out of the definitions of a Locally Based Subsidiary are relevant to this evaluation. The definitions of a Locally Based Subsidiary are what they are. AECOM does not meet those definitions. If AECOM was unclear about them, it could have raised a question at the appropriate time, or it could have filed a Specification Challenge. The time to do either of those things has long passed. Purchasing could not use any response to this question in furtherance of its evaluation of AECOM, or in evaluation of Hatch's Objection.

Regarding the questions raised in Section No. 8, again, this is irrelevant. Whether Mr. Bucknor submitted responses to prior solicitations does not matter in the evaluation of this proposal.

The questions raised by the Purchasing Division in furtherance of its evaluation of AECOM's proposal, or Hatch's Objection, are troubling. Proposals are to be evaluated based on their four corners. The questions raised by Purchasing far exceed any requests for clarification it is permitted under the Code, the RFP or Florida law. By asking these questions of AECOM, Purchasing is raising issues which are irrelevant to what should be an apples-to-apples comparison of proposals in this procurement. The questions could be interpreted as giving one proposer an unfair advantage over others. Neither the RFP, the County's Procurement Code, or Florida law allow for this type of inquiry to factor into the evaluation process, or into Purchasing's evaluation of Hatch's Objection.

AECOM's scant response to the Questionnaire is indicative. Despite being given an opportunity to address Purchasing's questions, it largely sidestepped them. After all these months since the Recommendation of Ranking was issued, what remains is that AECOM's top ranking is improper. It was the top-ranked firm by just one point, and only because it received points for being a Locally Based Subsidiary when it does not qualify as one. Those points must be deducted from its score, and as a result, Hatch should be recommended for this award as the top-ranked proposer.

Despite the foregoing, Hatch remains hopeful the Purchasing Division will uphold its Objection to the rankings and recommend Hatch for award. Again, Hatch remains ready, willing and able to perform these services.

Robert Gleason, Director
February 28, 2023
Page 3

Thank you for your attention to the foregoing.

Sincerely,

A handwritten signature in blue ink that reads "Mark J. Stempler".

Mark J. Stempler
For the Firm

MJS/lb

cc: Fernando Amuchastegui (via email: fa@broward.org)
Michelle Lemire (via email: mlemire@broward.org)
Andrew Meyers, Esq. (via email: ameyers@broward.org)
Rene Harrod, Esq. (via email: rharrod@broward.org)
Connie Mangan (via email: cmangan@broward.org)
Christine Calhoun (via email: ccalhoun@broward.org)
Hatch Associates Consultants, Inc.

1. In previous responses to Broward County solicitations, your firm checked Option 1 (Local Business) not Option 3 (Locally Based Subsidiary) in the Location Certification Form. What was the basis for your firm's selection of Option 3 (Locally Based Subsidiary) in response to this solicitation (RFP No. PNC2124755P1) considering that you have not selected this option in response to prior solicitations?
2. In preparing a response to this solicitation, did your firm review paragraphs "A" through "E" directly underneath Option 3 (Locally Based Subsidiary) in the Location Certification Form? If so, did you have any questions at that time regarding your firm's eligibility to qualify as a "Local Business" AND a "Locally Based Subsidiary" as those terms are defined by Section 1-74 of the Broward County Code of Ordinances?
3. In response to this solicitation, did your firm submit any questions to Purchasing regarding the County's Bidding Preference for Local Vendors, codified in Section 1-74, et seq. of the Broward County Code of Ordinances?
4. In response to this solicitation, your firm clearly indicated on the Vendor Questionnaire and Standard Certifications, that the principal place of business address for your firm is 300 South Grand Avenue, Suite 1100, Los Angeles, CA 90071. Accordingly, what was your firm's understanding of the Location Certification Form, Option 3, paragraph "D" which clearly stated: "The Vendor has not claimed any other location as its principal place of business within one (1) year period immediately preceding the bid posting date"?
5. All firms were provided an advance (draft) copy of the Director of Purchasing Memorandum which indicated in Section "C" Additional Requirements/Information, that your firm was a Locally Based Subsidiary and entitled to three points (per Evaluation Committee member) for evaluation criteria location points. This point allocation was based on your firm's selection of Option 3 (Locally Based Subsidiary) of the Location Certification form submitted in response to this solicitation. The draft Director of Purchasing Memorandum provided instruction to proposers that desired to clarify any information provided in their response to do so in writing. Upon receipt of the draft Director of Purchasing Memorandum, why did your firm not provide clarification on your status as a Locally Based Subsidiary and request a change in the Location Certification Form from Option 3 (Locally Based Subsidiary) to Option 1 (Local Business) at that time?
6. In your correspondence to the County dated December 1, 2022, AECOM Technical Services claims that the Location Certification Form left out "key terms relevant to the definitions" of a Locally Based Subsidiary. Which specific key terms does AECOM Technical Services believe were not properly defined or explained in Option 3 (Locally Based Subsidiary) of the Location Certification Form?
7. How long has Christopher Bucknor worked at AECOM Technical Services? Please provide hiring data and timeframe of all positions held by Mr. Bucknor at AECOM, along with a job description for each position. For each position, please indicate whether Mr. Bucknor performed any procurement related functions on behalf of AECOM Technical Services, including but not limited to, submitting responses to solicitations issued by Broward County or any other governmental or public entity.
8. When was the first time Mr. Bucknor submitted a response to a solicitation on behalf of AECOM Technical Services? In total, how many solicitations (issued by any entity) has Mr. Bucknor responded to on behalf of AECOM Technical Services? Has Mr. Bucknor ever completed a certification form addressing local preference for any of these submittals? If so, please provide a copy of all location preference forms completed by Mr. Bucknor.