



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

Airport & Seaport Committee

June 11, 2009

9:30 A.M.

Commission Chamber

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**Miami-Dade County Board of County Commissioners
Office of the Commission Auditor**

**Legislative Notes
Airport & Seaport Committee
Meeting Agenda**

June 11, 2009

Written analyses and notes for the below listed items are attached for your consideration:

Item Number(s)

| |
|-------------|
| 3(B) |
| 3(F) |
| 3(N) |

If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Esq., Chief Legislative Analyst, at (305) 375-5469.

Acknowledgements--Analysis prepared by:
Bia Marsellos

**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

Agenda Item: 3(B)

File Number: 091233

Committee(s) of Reference: Airport and Seaport Committee

Date of Analysis: June 9, 2009

Type of Item: Assignment of Contract

Summary

This resolution authorizes the assignment of the Baggage Handling System Operation and Maintenance (BHS O&M) Contract from the current firm, FMC Technologies, Inc. (FMC) to John Bean Technologies Corporation (JBT). JBT is a corporation created by FMC.

Pursuant to Section 6.10 of the Contract, "The Contractor shall not assign the Contract or sublet it as a whole without the written consent of the Owner, nor shall the Contractor assign any moneys due or to become due the Contractor, without the previous written notice of the Owner." The term "Owner" is defined in Section 1.36 of the contract as, "Miami-Dade County Board of County Commissioners or the Aviation Department."

Background and Relevant Legislation

On December 19, 2006, the Board of County Commissioners (BCC) adopted R-1445-06 rejecting bids, waiving the formal bid requirements and authorizing issuance of an Invitation to Negotiate (ITN) with the two bidders, FMC and Aircraft Service International, Inc. (ASIG), in order to present the BCC with a final contract. ASIG was the provider of the O&M for Concourse B and Concourse F at the time and their contract was due to expire on February 2007. The ITN was necessary since both bids received exceeded the pre-bid estimate.

On May 8, 2007, the BCC adopted R-545-07 waiving competitive bidding procedures and awarding the BHS O&M Contract to FMC in the amount of \$37,338,979 for a term of three (3) years with two (1) year renewal options. The scope of the Contract included the operation, maintenance and repair of specified existing BHS and related equipment in Concourse F and the new South Terminal automated BHS at Miami International Airport (MIA). The services provide for maintenance and operations of all systems on a 24-hour schedule seven (7) days a week during the term of the Contract. Additionally, preventative and corrective maintenance shall be provided, and spare parts inventories shall be maintained. The bid

waiver was necessary since the project was originally competitively solicited under an Invitation to Bid (ITB) format.

Policy Change and Implication

This contract was awarded in the amount of \$37,338,979 with a 19% CSBE Goal totaling \$7,094,406.

According to the Department of Small Business Development (SBD), a 14% CSBE goal has been met. Which would equal to \$5,227,457.

However, according to the County Manager's memorandum, currently only 4% of the goal totaling \$1,530,860 has been achieved through the subcontractor Systems Integration & Maintenance, Inc. (SIMS). This project is at 32% completion.

- *How will the remaining 15% CSBE goal be realized prior to the June 2010 expiration date?*
According to MDAD, FMC intends to utilize SIMS more often and will be submitting a plan to address such issues.

Additionally, a Community Workforce Program (CWP) Goal was established at 29%.

Initially, a total of 55 positions were assigned to this project. In order to meet the 29% CWP goal, a minimum of 15 positions needed to be filled. According to MDAD, 17 positions were listed exceeding the CWP 29% required goal. **The Office of the Commission Auditor (OCA) requested a breakdown of the 17 employees, to include the Designated Target Area (DTA). MDAD's response illustrated only one (1) employee actually met the criteria of the CWP goal.**

- *Why was there only one (1) employee from the DTA?*
According to MDAD, due to an error, the CWP for this contract is actually 10% not the originally established 29%. Therefore, the CWP requirement would actually be only five (5) employees instead of 17. SBD is going to meet with the contractor FMC, to figure out an action plan in order to meet the 10% goal prior to the contract's expiration in June 2010.

MDAD provided additional information regarding the CWP assignment error:

- *After further conversations and a meeting with SBD, it was established that the CWP would remain at the initial 29% as was established initially. FMC submitted a revised CWP Action Plan to SBD during the first week of June 2009.*

According to the CWP Action Plan submitted by the contractor:

"We now realize that we misinterpreted boundaries associated with the Designated Hiring Areas and instead of hiring from the designated zones we hired from the entire County in which the zone was contained.... you can be assured that being made aware of our error in interpretation we will move with all haste and make every effort to get back on course and achieve the CWP goal."

According to SBD, **"The total workforce is 77 resulting in a CWP goal of 22 employees."**

*However, this is contrary to the Action Plan, whereby the contractor states they currently employ 43 laborers and subcontract 22 additional laborers to fulfill CSBE mandates, for a total of 65 laborers. The contractor does not include the twelve (12) non-labor, management/ administrative positions, as they do not contribute to the percentage of the workforce that performs construction or labor work as established by SBD. **In order to meet the CWP goal of 29%, 19 individuals from the designated zones are needed. The current number of individuals employed from these designated zones on site is three (3) for a total CWP compliance of 4.6%.***

On January 23, 2003, the BCC adopted Ordinance 03-1 establishing the Community Workforce Program (CWP) which was amended on November 4, 2003, through Ordinance 03-237 in order to provide job opportunities to Miami-Dade County residents of Designated Target Areas (DTA).

Pursuant to Section 2-1701 of Miami-Dade County Code, the contractor must submit to the County, within fifteen (15) days of notification of award of a contract, a Workforce Plan outlining how the goal will be met. The Workforce Plan must include, among other requirements, the total number of persons that will be used by the contractor identified by name, address and trade who reside in the Designated Target Area (DTA). A Contractor who does not have a Plan as of 25% completion of the Contract, may be subject to sanctions including, but not limited to, stop payment. Additionally, the Code, requires monitoring compliance with the ordinance by assigning County staff to be on site quarterly to review progress towards meeting the local workforce goal.

- *Who is responsible for monitoring compliance?*
- *What type of Workforce Plan was provided by the contractor within fifteen (15) days of the award?*
- *Why has it not been enforced?*

Budgetary Impact

The funding source for this contract award is Airport Operational Funds in the amount of \$37,338,979.

According to MDAD, the total expenditures through April 2009 are \$13,128,775.52 based on the following breakdown:

- Contract Allocation: \$10,234,510.10
- Dedicated Allowance: \$1,898,816.28
- General Allowance: \$699,790.71
- Training Allowance: \$295,658.43

Prepared by: Bia Marsellos

**MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 3(F)

File Number: 091760

Committee(s) of Reference: Airport and Seaport Committee

Date of Analysis: June 10, 2009

Type of Item: Request to Advertise

Summary

The County Manager's Memorandum recommends that the Board of County Commissioners (BCC) approve this resolution authorizing the County Mayor or his designee, to advertise a Request for Proposals (RFP) MDAD-01-09, for the Luggage Wrapping Services at Miami International Airport (MIA).

Pursuant to Sec. 2-8.1(b) of the Code of Miami-Dade County, the County Manager is hereby delegated the authority to advertise for bid all County contracts, including contracts for public improvements, purchases of supplies, materials and services, and purchases of professional services, **without the need for action by the County Commission.**

The scope of services provided for in the RFP include the following: the successful proposer shall provide, install, operate and maintain luggage wrapping and all other necessary machines for the provision of luggage wrapping services throughout MIA. Additionally, re-wrapping must be provided free of charge to passengers whose luggage has been opened and inspected by Transportation Security Administration (TSA).

There are nineteen (19) estimated locations in the second level of the Terminal Building and four (4) curbside locations. Additional locations will be allocated for the re-wrapping stations. Currently, there are 13 locations for re-wrapping stations.

The term shall be five (5) years with one two (2) year renewal option at the sole discretion of the Miami Dade Aviation Department (MDAD).

The proposer for RFP MDAD-01-09 shall pay Minimum Annual Guarantee (MAG) of \$1,500,000 in twelve (12) equal monthly payments, inclusive of \$36,261 in annual rent, or 25% of the monthly gross revenues. The RFP minimum qualification requirements are three (3) or more years of experience within the last five (5) years in the majority ownership of an entity that financed, designed, installed, maintained and operated luggage wrapping services in International Airports. Additionally, the proposer must submit documentation to evidence gross revenues totaling at least \$700,000 in annual revenues derived from luggage wrapping services.

The RFP has a thirty percent (30%) Airport Concession Disadvantaged Business Enterprise (ACDBE) contract goal.

Background and Relevant Legislation

A similar resolution was presented at the April 16, 2009, Airport and Seaport Committee (ASC) meeting, with a MAG of \$690,000. However, the resolution was ultimately deferred to no date certain with the following instructions: That staff work with the County Attorney's Office and TSA to resolve issues regarding ensuring that firms were qualified to work in secure areas and regarding re-wrapping luggage in secure areas at MIA, prior to this resolution returning to the Committee; and that the County Manager direct the Aviation Department Director to include language in the RFP requiring bidders to include in their proposals the program utilized by Secure Wrap of Miami to mentor Hannah Wrap Inc.

Additionally, the Assistant County Manager suggested that a supplement to the resolution be developed to address various issues and questions regarding the resolution.

On February 13, 2001, R-100-01 awarded the baggage wrap services concession agreement to the current vendor, Secure Wrap of Miami, Inc. for a term of three (3) years with four one (1) year options to renew. Subsequently, R-1220-04 adopted on October 19, 2004, extended the Agreement for one five (5) year term, modified the MAG, and waived competitive bid requirements.

The current contract expires on August 21, 2009.

The Office of the Inspector General Memorandum dated September 30, 2008 to MDAD urges MDAD to immediately begin initiating a new RFP or an Invitation to Bid (ITB) process.

Secure Wrap, through their attorney, requested a five (5) year extension in a letter to MDAD dated December 5, 2007. However, MDAD responded by stating that they would review the request and determine the best course of action as they were aware of other vendors who expect MDAD to allow the opportunity to participate in a public solicitation.

Policy Change and Implication

None, as this is a request to advertise an RFP.

Budgetary Impact

None, as this is a request to advertise an RFP.

Prepared by: Bia Marsellos

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Legislative Notes

Agenda Item: 3(N)

File Number: 091772

Committee(s) of Reference: Airport and Seaport Committee

Date of Analysis: June 10, 2009

Type of Item: Amendment to Lease and Concession Agreement

Summary

This resolution authorizes the First Amendment to the Lease and Concession Agreement (Agreement) for a Central Terminal Retail Program Developer at Miami International Airport (MIA) between Miami-Dade County and Westfield Concession Management, LLC (Westfield). Additionally, this resolution authorizes waiving formal bid procedures.

This Amendment will allow Westfield to provide a retail, food and beverage and duty free concession marketing program for the North and South Terminals in addition to the current Central Terminal retail concession marketing program.

Currently, Westfield, has been providing marketing and promotional services as part of its Agreement in the Central Terminal.

- *Is Westfield being compensated for their marketing and promotional services that they are currently providing?*

Background and Relevant Legislation

On July 13, 2004, R-842-04, awarded the Agreement to Westfield in order to develop, lease and manage a total of thirty-six (36) locations of high quality, reasonably priced newsstands and specialty retail spaces in the existing terminal building and concourses at MIA. Westfield pays a Minimum Annual Guarantee (MAG) of \$1,972,417.

- *According to the Manager's Memorandum, Westfield is responsible for thirty-four (34) locations.*

The term of the Agreement was for five (5) years from the effective date with one two (2) year option to renew. According to MDAD, the Lease effective date was July 13, 2004.

- *According to the Manager's Memorandum, the contract expires in August of 2012.*
- *Does the Amendment extend the expiration date of the contract?*

The ACDBE measure established for this award was 21%. The DBE participation achieved at award was 31.4%.

According to MDAD, the actual ACDBE percentage achievement for the following years has been, FY 2006: 16.7%, FY 2007 22.2%, FY 2008 26.4%, through April 2009 23.9%. The following information was provided by MDAD:

| CURRENT TENANTS | ACDBE STATUS |
|------------------|--------------|
| NewsLink | 0% |
| Hudson News | 0% |
| Brookstone | 0% |
| Mindworks | 100% |
| Havana Shirts | 0% |
| Mercado Miami | 100% |
| Borders | 0% |
| Dunkin Donuts | 40% |
| \$10 Boutique | 0% |
| Taxco Sterling | 100% |
| Tech Showcase | 100% |
| Bayside brush | 100% |
| Jack Georges | 0% |
| Ron Jon | 100% |
| Jetsetter Spa | 100% |
| Airport Wireless | 100% |
| Airport MD | 0% |
| Bead factory | 0% |

Policy Change and Implication

The bid waiver allows MDAD to expand the use of the marketing services, that Westfield currently provides in the Central Terminal, for a unified approach to the concessions marketing and promotions program at MIA.

Budgetary Impact

MDAD will pay Westfield a marketing fee of 12% of its direct cost for expanding their current marketing program anticipated to be \$35,000 to \$75,000 annually. MDAD currently collects approximately \$400,000 annually from the Airport's concessionaires for the marketing program.

- *According to MDAD, the 12% fee will not apply to the Central Terminal program as supported by the Westfield sub-tenants. It is intended that Westfield be paid the administrative fee so as to offset the cost of managing a program that has significantly increased in scope.*
- *Due to the significant increase in scope, should this be part of the County's RFP process?*

Prepared by: Bia Marsellos