

Memorandum



Date: February 18, 2010

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager 

Subject: Supplement to Contract Award Recommendation for Contracts No. 661A & 661B: Private Attorney Services – Miami-Dade Public Housing Agency

Agenda Item No. 801B Supplement

This supplement is presented to report that during the bid protest period, Clyne & Associates (Clyne), one of two incumbents currently performing services on the existing contract, and the lowest ranking proposer for EPP-RFP 661 filed a bid protest on July 1, 2009 regarding the subject contract award. In accordance with Implementing Order (I.O.) 3-21, the bid protest submitted by Clyne is considered an Informal Protest based on the dollar value of the contract. Pursuant to I.O. 3-21, the Department Director or designee is required to provide the protestor an opportunity to settle the protest. The Director of Procurement Management (Director) held an informal protest hearing on July 27, 2009.

The solicitation was advertised on November 26, 2008. Eight proposals were received on December 22, 2009.

Clyne protested the award recommendation based on the following claims:

1. That the Review Team had clear bias and favoritism.
2. Criteria that were not a part of the process were used to evaluate one proposer in order to make sure that the proposer did not win an award.
3. An evaluation of zero in all categories by one evaluator was based on previous billing disputes.
4. That Clyne has more experience in landlord tenant law, bankruptcy court and trial experience, number of evictions processed, past performance, familiarity with public and/or assisted housing laws and regulations, and more experience in training.
5. The fairness of the process was skewed by selecting administrators and Finance Department personnel instead of the site managers and County Attorneys.

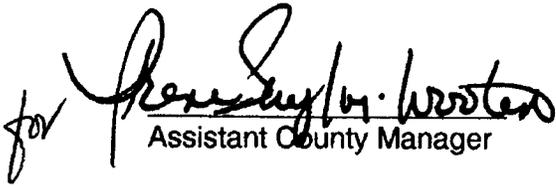
During the protest, the recommendation to award to the highest ranked proposers, all supporting documentation, as well as the details included in the protest and County contract files were carefully reviewed. As a result of this detailed review, a recommendation was made that the results of the previous evaluation process be rejected, and a new evaluation team be impaneled to evaluate the eight proposals. This recommendation was based on the following:

1. The audio recoding reflects that the evaluator who gave Clyne zero scores on all the criteria based his evaluation of that proposal on his view of previous billing issues. Billing issues were not one of the weighted criteria in the solicitation. Any issues regarding the performance of incumbent vendors should have been properly documented and shared with the team for consideration, or reviewed for responsibility following the recommendation to award.

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2. The scores of a single evaluator significantly impacted the results of the award recommendation. The August 4, 2009 memo documenting this recommendation with additional details is attached.

The recommendation to establish a new evaluation team was approved. There were no protests received in regard to the recommendation to award that is presented on this agenda as a companion to this Supplement.

for 
Assistant County Manager

Memorandum

MIAMI
COUNTY

Date: August 4, 2009

To: George M. Burgess
County ManagerFrom: Miriam Singer, CPPO
Director
Department of Procurement ManagementRECEIVED
MAY 11 2009

County Manager's Office

Subject: Informal Protest of Request for Proposal No. EPP-RFP 661, Cynthia W. Cum
Private Attorney Services – Miami-Dade Public Housing Agency**RECOMMENDATION**

It is recommended that the County Manager consider the informal protest filed by Clyne & Associates, P.A., and approve this recommendation to reject the recommendation made by the Review Team, and to establish a new Review Team to evaluate the proposals submitted in response to the referenced solicitation.

BACKGROUND

On November 26, 2008, a solicitation was issued under full and open competition for Private Attorney Services for the Miami-Dade Public Housing Agency (MDPHA). On January 12, 2009, a Review Team of County staff met to evaluate eight proposals received in response to the solicitation (score sheets are attached).

On February 24, 2009, a Report of the Review Team was forwarded for approval to negotiate with the two highest ranking proposers, De Leon and De Leon, PA (also an incumbent) and Alberto M. Cardel, Esq. The RFP stipulated that the County would select a primary and a secondary firm. The secondary firm will be utilized only in the event of a back-log and/or any performance issues with the primary vendor. The memorandum approving negotiations was signed March 9, 2009 (copy attached). On March 20, 2009 negotiations were held and two contracts were prepared for signing.

Clyne & Associates (Clyne), one of two incumbents currently performing services on the existing contract, received zero points out of 100 total possible points from one of the Review Team Members. Prior to finalizing the initial Report of the Review Team dated February 24, 2009, staff conducted three analyses of the scores in an effort to determine if the "zero" scores skewed the results of the evaluation. The analyses did not change the ranking of the two firms being recommended for negotiations.

In the process of preparing the award package for presentation to the Board of County Commissioners, an additional review was performed to ensure that the Review Team properly evaluated all proposers. The fourth analysis was conducted by removing the score of the Team member that assigned "zero" scores to Clyne for each of the evaluation criteria. When that analysis was performed, it changed the outcome of the ranking of proposals. The fourth analysis resulted in Clyne being the second ranked proposer.

Following consultation with the County Attorney's Office, the Review Team was reconvened on May 14, 2009 at a publicly noticed meeting to review the results of the last analysis. Additionally, the team member who assigned Clyne the "zero scores" was asked to discuss the rationale for the ratings. He stated that there were continuous and repeated billing issues with the incumbent, and as such it was not appropriate to recommend him for award. It was the unanimous decision of the Review Team to continue with the original recommendation to award as noted in the Review Team Report dated March 9, 2009.

The Review Team prepared a consensus statement (attached) which reflects the reasons for the recommendation.

On July 1, 2009, the formal recommendation to award contracts to the recommended proposers was approved and posted to initiate the protest process. All vendors were notified, Clyne filed a protest. In accordance with Implementing Order (I.O.) 3-21 (copy attached), the bid protest submitted by Clyne is considered an Informal Protest based on the dollar value of the contract. Pursuant to I.O. 3-21, the Department Director or designee is required to provide the protestor an opportunity to settle the protest.

On July 27, 2008, a publicly noticed meeting to provide the firm an opportunity to settle the protest was held with Reginald J. Clyne, President of Clyne & Associates, P.A. I heard the issues raised in the protest by Mr. Clyne. Also in attendance at the informal protest meeting were Assistant County Attorney Oren Rosenthal, Andrew Zawoyski of the Department of Procurement Management, and Craig Clay, of Miami-Dade Public Housing Agency.

Clyne & Associates protest cited five issues:

1. That the Review Team had clear bias and favoritism.
2. Criteria that were not a part of the process were used to evaluate one proposer in order to make sure that the proposer did not win an award.
3. An evaluation of zero in all categories by one evaluator was based on previous billing disputes.
4. That Clyne has more experience in landlord tenant law, bankruptcy court and trial experience, number of evictions processed, past performance, familiarity with public and/or assisted housing laws and regulations, and more experience in training.
5. The fairness of the process was skewed by selecting administrators and Finance Department personnel instead of the site managers and County Attorneys.

I have carefully reviewed the recommendation to award to the highest ranked proposers and associated supporting documentation, as well as the details included in the protest process and the County contract files. It is recommended that the results of the previous Review Team process be rejected and a new Review Team be selected to evaluate the eight proposals originally submitted based on the following:

1. That the evaluator who gave a zero score admitted on record that there were continuous and repeated billing issues with Clyne, and as such it was not appropriate to recommend this contractor for award. Billing issues were not one of the weighted criteria in the solicitation. Any issues regarding the performance of incumbent vendors should have been properly documented and shared with the team for consideration, or reviewed for responsibility following the recommendation to award.
2. Eliminating this zero score has an outcome on the award process.

The following is a list of recommended individuals for the new Review Team:

Dashtaki, Mandana, County Attorney's Office
Summerset, Shannon, County Attorney's Office (alternate)
Sherra McLeod, Miami-Dade Public Housing Agency
Jay Pons, Housing Finance Authority
Elva Marin, General Services Administration

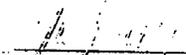
Should you have any questions or desire additional information, please do not hesitate to contact me.

Approval to rescind previous award recommendations and select a new Review Team for evaluation of eight proposals received in response to the solicitation:

Approved:



George M. Burgess
County Manager



Date

Not Approved:

George M. Burgess
County Manager

Date

Attachments

- c: Alina T. Hudak, Assistant County Manager
Cynthia Curry, Senior Advisor to the County Manager
Oren Rosenthal, Assistant County Attorney
Gregg Fortner, Director, Miami-Dade Public Housing Agency
Craig Clay, CFO, Miami-Dade Public Housing Agency