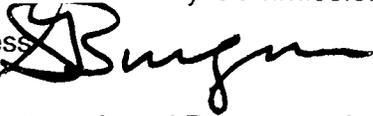


Memorandum



Date: February 1, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager 

Subject: Supplement to Contract Award Recommendation for Contract No.9252-WS:
Sewer Inspection and Grout Repair Vehicles

Supplement
Agenda Item No. 8(O)(1)(I)

This supplement is presented to report that during the bid protest period, Aries Industries, Inc., the low bidder, filed a timely bid protest related to the subject contract award.

On June 10, 2010, the County Attorney's Office issued an opinion stating that Aries bid was non-responsive because Aries' bid deviated from the bid specifications. As a result, on July 8, 2010, the County Manager's award recommendation was filed with the Clerk of the Board, recommending award to ELXSI, Inc. d/b/a Cues.

During the bid protest period Aries Industries, Inc., the low bidder, filed a timely bid protest on July 13, 2010. Aries argued that their bid is responsive, because the LED lights on their camera are replaceable in the field. In addition, Aries stated that the pole camera they offered met the specification requirements, and therefore their bid should be considered responsive.

On August 4, 2010, the County Attorney's Office issued a revised and superseding Legal Opinion, declaring Aries' bid responsive. The County Manager's Award Recommendation was rescinded on August 27, 2010, and the Cone of Silence was reinstated.

Subsequent to the County Attorney's revised opinion and award rescission, staff proceeded with a review of Aries' equipment. As part of this review, Aries conducted an equipment demonstration on August 16, 2010. After the demonstration, staff determined that Aries' equipment did not meet several areas of the bid specifications. On September 22, 2010, a revised County Manager's Award Recommendation awarding the contract to ELXSI, Inc. d/b/a/ Cues, was filed with the Clerk of the Board.

Aries filed a second timely bid protest on September 27, 2010. This protest alleged that the large line kits offered by Aries met the specifications. The specifications clearly stated that large line kits that require assembly and disassembly were not acceptable. Aries' large line kits require assembly and disassembly. The specifications also required that the equipment have a built-in two-speed transmission. Aries equipment did not meet this requirement. Subsequently, a bid protest hearing was scheduled for October 14, 2010, but due to a scheduling conflict, the protest hearing was postponed on October 12, 2010, without a new date set.

A Supplemental Memorandum supporting the County Manager's revised Award Recommendation was filed with the Clerk of the Board on October 14, 2010 (copies are attached for reference). The revised Award Recommendation clarified that Aries' bid was not acceptable as the equipment did not meet specifications.

Aries Industries, Inc. withdrew its bid protest on October 25, 2010.

Attachments



Assistant County Manager



Procurement Management
111 NW 1st Street • Suite 1300
Miami, Florida 33128-1974
T 305-375-5289 F 305-375-4407 305-372-6128

miamidade.gov

October 14, 2010

- ADA Coordination
- Agenda Coordination
- Animal Services
- Art in Public Places
- Audit and Management Services
- Aviation
- Building
- Building Code Compliance
- Business Development
- Capital Improvements
- Citizens' Independent Transportation Trust
- Commission on Ethics and Public Trust
- Communications
- Community Action Agency
- Community & Economic Development
- Community Relations
- Consumer Services
- Corrections & Rehabilitation
- Cultural Affairs
- Elections
- Emergency Management
- Employee Relations
- Empowerment Trust
- Enterprise Technology Services
- Environmental Resources Management
- Fair Employment Practices
- Finance
- Fire Rescue
- General Services Administration
- Historic Preservation
- Homeless Trust
- Housing Agency
- Housing Finance Authority
- Human Services
- Independent Review Panel
- International Trade Consortium
- Juvenile Services
- Medical Examiner
- Metro-Miami Action Plan
- Metropolitan Planning Organization
- Park and Recreation
- Planning and Zoning
- Police
- Procurement Management
- Property Appraisal
- Public Library System
- Public Works
- Safe Neighborhood Parks
- Seaport
- Solid Waste Management
- Strategic Business Management
- Team Metro
- Transit
- Task Force on Urban Economic Revitalization
- Vizcaya Museum And Gardens
- Water & Sewer

All Responding Vendors (See Distribution List)

SUBJECT: Bid No.: 9252-WS
Sewer Inspection and Grout Repair Vehicles

Dear Vendors:

This Supplemental Memorandum is being provided to include additional information in support of the Award Recommendation.

If you have questions, please contact Pablo Martinez at 305-375-2102, or via email: mpablo@miamidade.gov.

Sincerely,

MIAMI-DADE COUNTY, FLORIDA

Pablo Martinez, GPPB
Sr. Procurement Contracting Agent

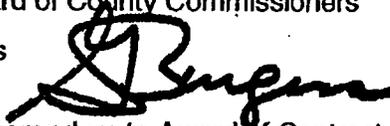
Distribution: Aries Industries, Inc.
ELXSI d/b/a Cues, Inc.

c: Clerk of the Board
Bid File

Delivering Excellence Every Day

Memorandum



Date:
To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners
From: George M. Burgess
County Manager 
Subject: Supplemental Memorandum to Award of Contract No. 9252-WS: Sewer
Inspection and Grout Repair Vehicles

RECOMMENDATION

This Supplemental Memorandum is provided to include additional information in support of the recommendation that the Board of County Commissioners approve award of this contract to ELXSI Inc. d/b/a Cues to provide sewer inspection and grout repair vehicles for Miami-Dade Water and Sewer Department.

CONTRACT NUMBER: 9252-WS
CONTRACT TITLE: Sewer Inspection and Grout Repair Vehicles
TERM: One-time purchase
APPROVAL TO ADVERTISE: January 15, 2010
METHOD OF AWARD: To the responsive and responsible bidder offering the lowest price per item.
PREVIOUS CONTRACT AMOUNT: There is no previous contract.
CONTRACT AMOUNT: \$1,683,000

USING/MANAGING AGENCY AND FUNDING SOURCE:

Department	Allocation	Funding Source	Contract Manager
Miami-Dade Water and Sewer Department	\$1,683,000	Proprietary Funds	Gregory Hicks

DPM AGENT/OFFICER: Pablo Martinez, Department of Procurement Management

VENDOR RECOMMENDED FOR AWARD:

Vendor	Address	Principal
ELXSI Inc. d/b/a Cues (Non-local vendor)	3600 Rio Vista Avenue Suite A Orlando, Florida 32837	Alexander M. Milley

PERFORMANCE DATA: There are no performance issues with the recommended firm.

COMPLIANCE DATA:

There are no compliance issues with the recommended firm.

VENDOR(S) NOT RECOMMENDED FOR AWARD:

The offer from Aries Industries, Inc. was deemed not acceptable because the equipment offered failed to meet several areas of the bid specifications. The following supplemental information is provided in support of that determination:

- 1) Aries does not meet the requirement of a one-hand controller for the camera and transporter, as per Section 3, Paragraph 3.40.9, Item D, of the bid specifications.
- 2) Aries offered a pole camera inspection system that does not meet the requirements of Section 3, Paragraph 3.41.6, of the bid specifications. Aries offered a pole camera assembly with batteries and transmitter in an external housing attached to the pole assembly, and not built-in. This external battery housing restricts the functional use of the pole camera, because it does not allow the operator to securely grasp the pole, using the upper handgrip section.
- 3) Aries was asked to demonstrate the automatic payout system. Aries offered the name and number of a customer that has a truck with the automatic payout system. DPM staff called the customer and requested information about the automatic payout feature. Staff spoke to Danny Di Paolo, of Chicagoland Trenchless, and requested a picture of the automatic payout feature. The pictures received were forwarded to WASD, and WASD staff determined that the system depicted was not an automatic payout system, as required is Section 3, Paragraph 3.33, of the bid specifications.

REVIEW COMMITTEE DATE:

November 10, 2009; Item #6-10

CONTRACT MEASURES:

The Small Business Enterprise Bid Preference was applied in accordance with the Ordinance.

LIVING WAGE:

The Living Wage Ordinance is not applicable.

- USER ACCESS PROGRAM:** The User Access Program Provision will apply. The 2% program discount will be collected on all purchases.
- LOCAL PREFERENCE:** The Local Preference was applied in accordance with the Ordinance. The preference did not affect the award of the contract.
- ESTIMATED CONTRACT COMMENCEMENT DATE:** Upon approval by the Board of County Commissioners and the expiration of the Mayoral veto period.

BACKGROUND

This contract is for purchase of nine sewer inspection and grout repair vehicles for the Miami-Dade Water and Sewer Department. Sewer inspection and grout repair vehicles are used to inspect the condition of sewer mains and service laterals, and to seal mainline joints and service connections. Sewer inspections and repairs are performed throughout Miami-Dade County to maintain underground utility infrastructure, and to prevent groundwater contamination.

Based on the County Attorney's Office (CAO) finding that the bid from Aries Industries, Inc. (Aries), the low bidder, was nonresponsive, the recommendation was made to award to ELXSI Inc. d/b/a Cues, the second low bidder. Following the County Manager's approval and posting of the award recommendation with the Clerk of the Board, Aries filed a timely bid protest. On August 4, 2010, the CAO issued a revised and superseding legal opinion, stating that Aries' bid is responsive and that the administration should proceed to determine if the equipment offered by Aries met the technical requirements of the bid.

Aries was invited to demonstrate the equipment offered to the County. On August 16, 2010, Aries conducted an equipment demonstration at Miami-Dade Water and Sewer Department's (WASD) South Miami Heights Facility. Aries explained at the demonstration that they were unable to bring a TV Inspection and grout repair vehicle, as proposed in their bid submittal, because it would have taken several months to build the vehicle. Instead, Aries brought two different trucks, one with a TV inspection system and the second vehicle equipped with a grout and seal system. Aries demonstrated the camera, transporter, pole camera inspection system, and grouting system.

Aries Industries' bid was determined as not acceptable because the equipment offered failed to meet several areas of the bid specifications:

1) Section 3, Paragraph 3.40.9, Item D, of the bid specifications require:

- D. The camera transporter, when used with a pan and tilt camera, shall be controlled by a one hand controller. The controller shall include function buttons to allow one-hand control of the following: pan & tilt and home camera control and transporter speed and direction.

Aries demonstrated a portable controller with two separate joysticks, one to control the camera and the other to control the transporter. Aries does not meet the requirement of a one-hand controller for the camera and transporter.

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2) Section 3, Paragraph 3.41.6, of the bid specifications state:

3.41.6 Wireless Video Transmission with Internal battery and Transmitter Built-in Pole Assembly.

The transmitter and battery shall be incorporated in the pole assembly.

Aries demonstrated a pole camera assembly with batteries and transmitter in an external housing attached to the pole assembly, and not built-in. The external battery housing restricts the functional use of the pole camera, because it does not allow the operator to securely grasp the pole, using the upper handgrip section.

3) Section 3, Paragraph 3.33, of the bid specifications requires the following:

3.33 TV Cable Reel Control Remote and Local

A gearshift selector and linkage shall be provided at the control console to operate the reel mounted transmission. The combination of the reel motor controller and transmission gearshift selector will maximize the efficiency of the television inspection operation and minimize the load on the reel and motor. A speed controller, gearshift selector and on/off switch shall be provided at the reel for local control during set up. Reel must be supplied with an automatic-payout feature that synchronizes the speed of the video cable feed out with the speed of the transporter, eliminating cable drag to extend the life of the transporter drive train and to maximize transporter pulls.

Aries was asked to demonstrate the automatic payout system. Aries offered the name and number of a customer that has a truck with the automatic payout system. The Department of Procurement Management staff called the customer and requested information about the automatic payout feature. Staff spoke with Danny Di Paolo of Chicagoland Trenchless, and requested a picture of the automatic payout feature. The pictures received were forwarded to Miami-Dade Water and Sewer Department (WASD), and WASD determined that the system depicted was not an automatic system, as required.

4) Section 3, Paragraph 3.40.4, of the bid specifications stated the following requirement:

3.40.4 The steerable wheeled camera transporter shall have a built-in two-speed transmission that doubles the torque of the transporter drive train when the large diameter tires (7.9") are installed. Large line kits that require assembly and disassembly when switching from inspection of small diameter pipe to large diameter pipe will be deemed not acceptable.

Aries demonstrated a wheeled camera transporter. Aries explained that in order to inspect larger diameter pipes, with the larger tires, a large line conversion kit requiring the assembly and disassembly of side plates would be required.

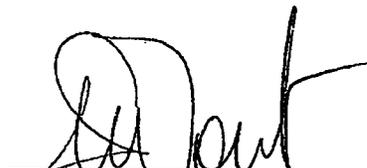
Aries bid submittal (on page 3 – 23), under the heading of "Large Line Kit", states: "A large line conversion kit will also be supplied. The field-interchangeable kit consists of two side rails that utilize the (6) wheel hubs and a gear train to power (4) 8" diameter rubber tires. This makes the transporter operational in sewer lines up to 36" and larger". Aries is clearly taking exception to the bid requirements by offering a Large Line Kit, instead of a built-in 2-speed transmission.

Page 5
Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

Aries offered a wheeled camera transporter with a large line kit, instead of a built-in 2-speed transmission, as required. Aries does not meet the requirements of the bid because the vendor is offering a camera transporter that is not acceptable (as clearly stated in the specifications).

On September 23, 2010, ELXSI Inc. d/b/a Cues performed an equipment demonstration, which confirmed that the Cues' offer met the specification requirements of the solicitation.

Therefore it is recommended that the Board of County Commissioners approve award of this contract to ELXSI, Inc. d/b/a Cues, the responsive and responsible bidder, for purchase of sewer inspection and grout repair vehicles for Miami-Dade Water and Sewer Department.



Assistant County Manager

Memorandum



Date:

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

From: George M. Burgess
County Manager

Subject: Award of Contract No. 9252-WS: Sewer Inspection and Grout Repair Vehicles

RECOMMENDATION

It is recommended that the Board of County Commissioners approve award of this contract to ELXSI Inc. d/b/a Cues to provide sewer inspection and grout repair vehicles for Miami-Dade Water and Sewer Department.

CONTRACT NUMBER: 9252-WS

CONTRACT TITLE: Sewer Inspection and Grout Repair Vehicles

TERM: One-time purchase

APPROVAL TO ADVERTISE: January 15, 2010

METHOD OF AWARD: To the responsive and responsible bidder offering the lowest price per item.

PREVIOUS CONTRACT AMOUNT: There is no previous contract.

CONTRACT AMOUNT: \$1,683,000

USING/MANAGING AGENCY AND FUNDING SOURCE:

Department	Allocation	Funding Source	Contract Manager
Miami-Dade Water and Sewer Department	\$1,683,000	Proprietary Funds	Gregory Hicks

DPM AGENT/OFFICER: Pablo Martinez, Department of Procurement Management

VENDOR RECOMMENDED FOR AWARD:

Vendor	Address	Principal
ELXSI Inc. d/b/a Cues (Non-local vendor)	3600 Rio Vista Avenue Suite A Orlando, Florida 32837	Alexander M. Milley

PERFORMANCE DATA: There are no performance issues with the recommended firm.

COMPLIANCE DATA: There are no compliance issues with the recommended firm.

VENDOR(S) NOT RECOMMENDED FOR AWARD: Aries Industries, Inc. was deemed non-responsible, because Aries offered a wheeled camera transporter with a large line kit, instead of a built-in 2-speed transmission, as required in Section 3, Paragraph 3.40.4, of the bid specifications. Aries does not meet this requirement because the vendor offered a camera transporter that does not meet the specification requirements.

REVIEW COMMITTEE DATE: November 10, 2009; Item #6-10

CONTRACT MEASURES: The Small Business Enterprise Bid Preference was applied in accordance with the Ordinance.

LIVING WAGE: The Living Wage Ordinance is not applicable.

USER ACCESS PROGRAM: The User Access Program Provision will apply. The 2% program discount will be collected on all purchases.

LOCAL PREFERENCE: The Local Preference was applied in accordance with the Ordinance. The preference did not affect the award of the contract.

ESTIMATED CONTRACT COMMENCEMENT DATE: Upon approval by the Board of County Commissioners and the expiration of the Mayoral veto period.

BACKGROUND

This contract is for purchase of nine sewer inspection and grout repair vehicles for the Miami-Dade Water and Sewer Department. Sewer inspection and grout repair vehicles are used to inspect the condition of sewer mains and service laterals, and to seal mainline joints and service connections. Sewer inspections and repairs are performed throughout Miami-Dade County to maintain underground utility infrastructure, and to prevent groundwater contamination.

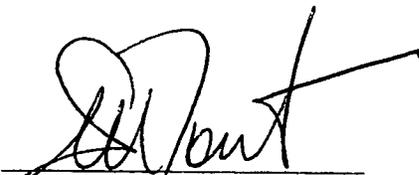
Based on the County Attorney's Office (CAO) finding that the bid from Aries Industries, Inc. (Aries), the low bidder, was nonresponsive, the recommendation was made to award to ELXSI Inc. d/b/a Cues, the second low bidder. Following the County Manager's approval and posting of the award recommendation with the Clerk of the Board, Aries filed a timely bid protest. On August 4, 2010, the CAO issued a revised and superseding legal opinion, stating that Aries' bid is responsive and that the administration should proceed to determine if the equipment offered by Aries met the technical requirements of the bid.

Aries was invited to demonstrate the equipment offered to the County. On August 16, 2010, Aries conducted an equipment demonstration at Miami-Dade Water and Sewer Department's (WASD) South Miami Heights Facility. Aries explained at the demonstration that they were unable to bring a TV Inspection and grout repair vehicle, as proposed in their bid submittal, because it would have taken several months to build the vehicle. Instead, Aries brought two different trucks, one with a TV inspection system and the second vehicle equipped with a grout and seal system. Aries demonstrated the camera, transporter, pole camera inspection system, and grouting system.

WASD and the Department of Procurement Management staff met to discuss the equipment demonstration and determined that Aries Industries' offer does not meet the specification requirement, because Aries offered a wheeled camera transporter with a large line kit, instead of a built-in 2-speed transmission, as required in Section 3, Paragraph 3.40.4, of the bid specifications.

An equipment demonstration has been scheduled with ELXSI Inc. d/b/a Cues to confirm the results of the technical analysis by WASD that the vendor's offer meets the specification requirements.

Attachments



Assistant County Manager



MEMORANDUM

TO: LISTED DISTRIBUTION

DATE: September 30, 2010

FROM: Diane Collins, Acting Division Chief
Clerk of the Board Division

SUBJECT: Bid Protest – Bid No. 9252-WS
Sewer Inspection and Grout Repair
Vehicles for Miami-Dade Water and
Sewer Department

Diane Collins

Pursuant to Section 2-8.4 of the Code and Implementing Order 3-21, Bid Protest Procedures, a bid protest was filed in the Clerk of the Board's Office on September 27, 2010, in connection with the foregoing Contract. The protest was filed by Jose M. Jimenez, representing Aries Industries, Inc.

A filing fee in the amount of \$3,000.00 was submitted by the protester.

If you have any questions pertaining to this protest, please contact my assistant in charge of bid protest procedures Fara C. Diaz at Ext. 1293.

DC/fcd
Attachments

DISTRIBUTION:

Honorable Mayor Carlos Alvarez (via email)
Board of County Commissioners (via email)
George Burgess, County Manager (via email)
Howard Piper, Assistant County Manager (via email)
Hugo Benitez, Assistant County Attorney (via email)
Henry Gillman, Assistant County Attorney (via email)
Charles Anderson, Commission Auditor
Miriam Singer, Director, Dept. of Procurement Mgmt. (via email)
Pablo Martinez, CPPB, Senior Procurement Contracting Agent, DPM (via email)
Walter Fogarty, DPM (via email)
John Renfrow, Director, Miami-Dade Water and Sewer Dept. (via email)

STEARNS WEAVER MILLER
WEISSLER ALHADEFF & SITTERSON, P.A.

CLERK OF THE BOARD
2010 SEP 27 PM 3:18

CLERK, CIRCUIT & COUNTY COURTS
Dade County, FL
Jose M. Jimenez
150 West Flagler Street, Suite 2200
Miami, FL 33130
Direct: (305) 789-3341
Fax: (305) 789-2682
Email: jjimenez@stearnsweaver.com

September 27, 2010

Clerk of the Board
Stephen P. Clark Center
111 NW 1st Street Suite 17-202
Miami, Florida 33126

VIA ELECTRONIC MAIL &
HAND DELIVERY

Re: Bid Protest of Manager's Recommendation in Bid No. 9252-WS- Sewer Inspection and Grout Repair Vehicles (the "Bid").

To Whom It May Concern:

Pursuant to Section 2-8.4 of the County Code, this letter serves as Aries Industries, Inc.'s (Aries), written intent to protest County Manager's Recommendation of Award of Contract No. 9252-WS: Sewer Inspection and Grout Repair Vehicles. The grounds for this protest are as follows:

Section 3.40.4 of the Bid requires the following technical specification:

The steerable wheeled camera transporter shall have a built-in two-speed transmission that doubles the torque of the transporter drive train when the large diameter tires (7.9") are installed. Large Line kits that require assembly and disassembly when switching from inspection of small diameter pipe to large diameter pipe will be deemed not acceptable (Emphasis added).

Additionally, Section 3.40.1 requires:

The steerable wheeled camera/transporter assembly for 10" to 30" pipe with the pan and tilt zoom mounted must not exceed 27" in length. The steerable wheeled camera transporter must be supplied with seven wheel sets: rubber tires for 10"-30" pipe inspection, steel impregnated high traction tires for 10"-30" pipe inspection, and pneumatic tires for 15"-30" pipe inspection with heavy debris (Emphasis added).

Aries proposed a steerable camera transporter capable of inspecting pipe within the size specifications of Section 3.40.1 of the Bid. This transporter is equipped with a Large Line kit which does not require assembly or disassembly when switching from inspection of a 10" pipe

to a larger pipe within the size specifications above. The Bid only deemed Large Line kits that required such maintenance to be unacceptable. Thus, by necessity, Large Line kits that do not require such maintenance must be deemed acceptable. Otherwise, the bid would have simply deemed all Large Line kits unacceptable.

Furthermore, the acceptable Large Line kit performs the same function as a built-in two speed transmission because it doubles the torque when the larger tires are attached for inspection of larger pipe. As such, the camera transporter does meet the specification requirements.

Consequently, the Manager's determination that Aries' proposal was non-responsible, because it offers "a vehicle with a Large Line kit, instead of a built-in 2-speed transmission," is inconsistent with the Bid's language and must be deemed arbitrary and capricious, resulting in Aries being the lowest responsive, responsible bidder. Moreover, such an interpretation of the Bid's requirements would, to the best of Aries' knowledge, result in only one possible bidder from the several national and international companies that manufacture such a product. Specifications so narrowly drawn contravene public policy and may not be upheld.

Please contact me to schedule a hearing on this matter, or should you require any additional information. Thank you in advance for your attention to this matter.

Sincerely,



Jose M. Jimenez

Cc: Henry Gillman, Assistant County Attorney
Pablo Martinez, Miami-Dade Procurement Management
Jose A. Villalobos, Akerman Senterfitt



Harvey Ruvin
CLERK OF THE CIRCUIT AND COUNTY COURTS
Miami-Dade County, Florida

CLERK OF THE BOARD OF COUNTY COMMISSIONERS
STEPHEN P. CLARK MIAMI-DADE GOVERNMENT CENTER
SUITE 17-202
111 N.W. 1st Street
Miami, FL 33128-1983
Telephone: (305) 375-5126

October 25, 2010

Jose M. Jimenez, Esq.
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
150 West Flagler Street, Suite 2200
Miami, Florida 33130

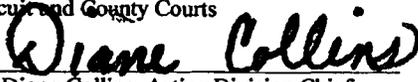
Re: Bid Protest – Bid No. 9252-WS
Sewer Inspection and Grout Repair Vehicles for Miami-Dade Water and Sewer Department

Dear Mr. Jimenez:

The Clerk of the Board is in receipt of your request dated October 25, 2010, to withdraw your bid protest filed in connection with the above referenced bid.

If you have any questions regarding this matter, do not hesitate to contact this office.

Sincerely,
HARVEY RUVIN, Clerk
Circuit and County Courts

By 
Diane Collins, Acting Division Chief
Clerk of the Board Division

DC/fcd

cc: Honorable Carlos Alvarez, Mayor, Miami-Dade County (via email)
George Burgess, County Manager (via email)
Howard Piper, Assistant County Manager (via email)
Hugo Benitez, Assistant County Attorney (via email)
Henry Gillman, Assistant County Attorney (via email)
Miriam Singer, Director, Department of Procurement Management (via email)
Pablo Martinez, CPPB, Senior Procurement Contracting Agent DMP (via email)
Walter Fogarty, DPM (via email)
Amos Roundtree, DPM (via email)
John Renfrow, Director, Miami-Dade Water and Sewer Department (via email)
Metro-Dade Court Reporters (via email)
Jimmy Morales (via email)
Jose Villalobos (via email)

15



July 8, 2010

- ADA Coordination
- Agenda Coordination
- Animal Services
- Art in Public Places
- Audit and Management Services
- Aviation
- Building
- Building Code Compliance
- Business Development
- Capital Improvements
- Citizens' Independent Transportation Trust
- Commission on Ethics and Public Trust
- Communications
- Community Action Agency
- Community & Economic Development
- Community Relations
- Consumer Services
- Corrections & Rehabilitation
- Cultural Affairs
- Elections
- Emergency Management
- Employee Relations
- Empowerment Trust
- Enterprise Technology Services
- Environmental Resources Management
- Fair Employment Practices
- Finance
- Fire Rescue
- General Services Administration
- Historic Preservation
- Homeless Trust
- Housing Agency
- Housing Finance Authority
- Human Services
- Independent Review Panel
- International Trade Consortium
- Juvenile Services
- Medical Examiner
- Metro-Miami Action Plan
- Metropolitan Planning Organization
- Park and Recreation
- Planning and Zoning
- Police
- Procurement Management
- Property Appraisal
- Public Library System
- Public Works
- Safe Neighborhood Parks
- Seaport
- Solid Waste Management
- Strategic Business Management
- Team Metro
- Transit
- Task Force on Urban Economic Revitalization
- Vizcaya Museum And Gardens
- Water & Sewer

All Responding Vendors (See Distribution List)

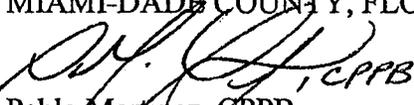
SUBJECT: Bid No. 9252-WS – Sewer Inspection and Grout Repair Vehicles for Miami-Dade Water and Sewer Department

Dear Vendors:

Evaluation of bids tendered in response to the above cited solicitation has been completed. The County Manager or designee has recommended award as shown in the attached document.

This notice is provided in accordance with Section 1.12 of the solicitation and Section 2-8.4 of the Code of Miami-Dade County. Our provision of this notice also serves to confirm the lifting of the Cone of Silence from this procurement action as dictated by Section 2-11.1(t) of the County Code.

We appreciate the participation of all vendors who responded to the subject action. If you have any questions, please contact me at 305-375-2102, or via email mpablo@miamidade.gov.

Sincerely,
MIAMI-DADE COUNTY, FLORIDA

 Pablo Martinez, CPPB
 Senior Procurement Contracting Agent

Distribution List: Aries Industries, Inc.
 ELXIS Inc. d/b/a Cues
 Advantage Golf Cars, Inc.
 Whiteside Chevrolet, GMC, Buick, Pontiac, Cadillac, Inc.

Attachment: County Manager Award Recommendation

cc: Clerk of the Board
 Oren Rosenthal, Assistant County Attorney
 Bid File

Delivering Excellence Every Day

Memorandum



Date:

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

From: George M. Burgess
County Manager

Subject: Award of Contract No. 9252-WS: Sewer Inspection and Grout Repair
Vehicles

RECOMMENDATION

It is recommended that the Board of County Commissioners approve award of this contract to ELXIS Inc. d/b/a Cues to provide sewer inspection and grout repair vehicles for the Miami-Dade Water and Sewer Department.

CONTRACT NUMBER: 9252-WS
CONTRACT TITLE: Sewer Inspection and Grout Repair Vehicles
TERM: One-time purchase
APPROVAL TO ADVERTISE: January 15, 2010
METHOD OF AWARD: To the responsive and responsible bidder offering the lowest price per item.
PREVIOUS CONTRACT AMOUNT: There is no previous contract.
CONTRACT AMOUNT: \$1,683,000

USING/MANAGING AGENCY AND FUNDING SOURCE:

Department	Allocation	Funding Source	Contract Manager
Miami Dade Water and Sewer Department	\$1,683,000	Proprietary Funds	Gregory Hicks

DPM AGENT/OFFICER: Pablo Martinez, Department of Procurement Management

VENDOR RECOMMENDED FOR AWARD:

Vendor	Address	Principal
ELXIS Inc. d/b/a Cues (Non-local vendor)	3600 Rio Vista Avenue Suite A Orlando, Florida 32837	Alexander M. Milley

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PERFORMANCE DATA: There are no performance issues with the recommended firm.

COMPLIANCE DATA: There are no compliance issues with the recommended firm.

VENDORS NOT RECOMMENDED FOR AWARD: Aries Industries, Inc. was deemed non-responsive by the County Attorney's Office (CAO), because their bid deviated from the bid specifications. (CAO opinion is attached.)

REVIEW COMMITTEE DATE: November 10, 2009; Item #6-10

CONTRACT MEASURES: The Small Business Enterprise Bid Preference was applied in accordance with the Ordinance.

LIVING WAGE: The Living Wage Ordinance is not applicable.

USER ACCESS PROGRAM: The User Access Program Provision will apply. The 2% program discount will be collected on all purchases.

LOCAL PREFERENCE: Local Preference was applied in accordance with the Ordinance. The preference did not affect the award of the contract.

ESTIMATED CONTRACT COMMENCEMENT DATE: Upon approval by the Board of County Commissioners and expiration of the Mayoral veto period.

BACKGROUND

This contract is required to purchase nine sewer inspection and grout repair vehicles for the Miami-Dade Water and Sewer Department (WASD). Sewer inspection and grout repair vehicles are used to inspect the condition of sewer mains and service laterals, and to seal mainline joints and service connections. Sewer inspections and repairs are performed throughout Miami-Dade County to maintain underground utility infrastructure, and to prevent groundwater contamination. These vehicles are required to replace vehicles which have exceeded their useful life.

The offer received from Aries Industries Inc. was deemed non-responsive by the CAO due to material deviations from the bid specifications (see attached CAO memo). The bid from ELXIS Inc d/b/a Cues (the second low bidder) was evaluated and met all the bid requirements.

Attachments


Assistant County Manager

Memorandum



Date: June 10, 2010

To: Pablo Martinez, CPPB
Senior Procurement Contracting Agent
Department of Procurement Management

From: Henry Gillman
Assistant County Attorney

Subject: ITB No. 9252-WS: Sewer Inspection and Grout Repair Vehicles for Miami-Dade Water and Sewer Department

You have requested an opinion on whether the bids by ARIES Industries Inc. and ELXIS, Inc. d/b/a CUES ("CUES") are responsive to the above-referenced Invitation to Bid ("ITB"). For the reasons set forth below, it is our opinion that the bid by ARIES is nonresponsive and the bid by CUES is responsive to the ITB.

FACTS

We rely on the information provided in your memorandum to this office dated May 6, 2009 attached hereto. The technical specifications for Bid no. 9252-WS include various requirements for the vehicle and camera that will be used to perform sewer inspections and grout repair. Both the primary bid and alternate bid submitted by ARIES include several deviations to the requirements in the ITB. For example, both of ARIES' bids do not include an inspection camera with field replaceable LED lamps as required by Sections 3.26.3 and 3.27.9 of the ITB. Section 3.26.3 states "The Optical Zoom Pan and Tilt Camera must have built in field replaceable lamps that provide lighting for 6"-42" pipe with no requirement to added external lighting." Section 3.27.9 states: "The LED light module must be able to be installed as an integrated LED light module by the operator in the field as an alternative to the halogen based light module." Contrary to the bid specifications, ARIES' bid includes an inspection camera with maintenance free LED lights. Additionally, neither bid submitted by ARIES includes a pole mounted camera inspection system with the transmitter and battery housed in the pole assembly. Section 3.41.6 requires that the transmitter for wireless video and the battery be incorporated in the pole assembly. ARIES bid includes a camera with the transmitter and battery housed on the outside of the pole.

Section 3.7 of the Technical Specifications requires that the interior of the "step van" style vehicle be a minimum of 92 inches wide and 84 inches in height. The dimensions for the step van in CUES' bid provides for a minimum of 90 inches wide and 82 inches in height.

You indicated that the above specifications are material requirements for the camera and the vehicle. In response to requests for clarification regarding their bids, ARIES confirmed that the inspection camera had maintenance-free lights and that the battery is housed at the top of the pole camera assembly. A picture of the camera shows that the battery is on the outside of the pole. CUES provided documentation that the dimensions of the step van body in its bid meets the minimum specifications for the height and width required by the ITB.

DISCUSSION

Based on the facts set forth above, DPM may not consider ARIES' bid as responsive to the ITB. In general, a bid may be rejected or disregarded if there is a material variance between the bid and the advertisement. See Robinson Electric Co. v. Dade County, 417 So. 2d 1032, (Fla. 3d DCA 1982).

Only when a variance is immaterial or "minor" is a bidder permitted to withdraw the variance. *Harry Pepper & Associates, Inc. v. City of Cape Coral*, 352 So. 2d 1190, 1129 (Fla. 2nd DCA 1977) ("a bidder cannot be permitted to change his bid after the bids have been opened, except to cure minor irregularities"). Bidders who propose impermissible exceptions to invitations to bid do so at the risk those exceptions are deemed material to the proposal and having their bid rejected as nonresponsive.

A determination of whether a variance or irregularity is minor is fact specific and may differ from bid to bid. There is a two part test to determine if a specific noncompliance in a bid constitutes a substantial and thus nonwaivable issue: (1) whether the effect of the waiver would be to deprive the County of the assurance that the contract would be entered into, performed and guaranteed according to its specific requirements; and (2) whether it would adversely affect competitive bidding by placing a bidder in a position of advantage over other bidders. See e.g. *Glatstein v. City of Miami*, 399 So. 2d 1005 (Fla. 3rd DCA), rev. denied, 407 So. 2d 1102 (Fla. 1981).

Here, ARIES' bid deviated from the bid specifications, namely, with regard to the requirement that the LED lights be replaceable in the field and that the battery be housed in the pole assembly. Section 3.26.3 of the ITB expressly states: "cameras that do not contain field replaceable lighting will be deemed not acceptable." Clearly, the Department determined that replacement lighting is a material requirement of the ITB. Since ARIES bid includes material variances or exceptions to the ITB, such variances are not irregularities or technicalities that may be waived pursuant to Section 1.5 of the ITB.

Based on the foregoing, it is our opinion that the bid by ARIES is nonresponsive to the ITB.

Memorandum



Date: May 6, 2010

To: Hugo Benitez
Assistant County Attorney
County Attorney's Office

From: Pablo Martinez, CPPB
Senior Procurement Contracting Agent
Department of Procurement Management

Subject: Request for Responsiveness Determination on ITB No. 9252-WS: Sewer Inspection and Grout Repair Vehicles for Miami-Dade Water and Sewer Department

On February 17, 2010, bids were received for the subject solicitation. Please provide a legal opinion on the responsiveness of the bids received from the following vendors. In addition, please advise if any of the areas cited below fall within the "irregularities or technicalities" that may be waived, as per Section 1, Paragraph 1.5, A, of the bid solicitation.

Vendor
Aries Industries, Inc. (Original Bid)

Observations

1) This vendor offered an inspection camera with maintenance-free LED lights. Section 3, Paragraph 3.26 and 3.27.9, of the bid specifications require that the LED lamps be replaceable in the field.

2) This vendor is offering an air-cooled electrical generator, and notes the following in their proposal: *"The manufacturer advises against the use of slide out rails for generator mounting. The rails interfere with airflow across the bottom of the unit. This results in the unit overheating and shutting down."* Section 3, Paragraph 3.13.2, of the bid, requires that the generator be mounted on a slide-out tray.

3) This vendor is offering a pole camera inspection system with the battery housed in the pole camera assembly, at the top of the pole. Section 3, Paragraph 3.41.6, requires that the battery be housed in the pole assembly.

4) A copy of this vendor's State of Florida Motor Vehicle Dealer License was requested, as required by Chapter 320 of the Florida Statutes (SS320.27), but the vendor did not have a motor vehicle dealer license and did not provide the license within the timeframe allowed by the County (February 26, 2010), as per Section 2, Paragraph 2.9.19, of the bid document. Recently, Aries acquired the motor vehicle dealer license and provided a copy of the license to the County.

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Vendor
Aries Industries, Inc. (Alternate Bid)

Observations

1) This vendor offered an inspection camera with maintenance-free LED lights. Section 3, Paragraph 3.26 and 3.27.9, of the bid specifications require that the LED lamps be replaceable in the field.

2) This vendor is offering a pole camera inspection system with the battery housed in the pole camera assembly, at the top of the pole. Section 3, Paragraph 3.41.6, requires that the battery be housed in the pole assembly.

3) A copy of this vendor's State of Florida Motor Vehicle Dealer License was requested, as required by Chapter 320 of the Florida Statutes (SS320.27), but the vendor did not have a motor vehicle dealer license and did not provide the license within the timeframe allowed by the County (February 26, 2010), as per Section 2, Paragraph 2.9.19, of the bid document. Recently, Aries acquired the motor vehicle dealer license and provided a copy of the license to the County.

Vendor
ELXIS, Inc. d/b/a CUES

Observations

This vendor offered a step van body, with an interior height of 82" minimum, and a width of 90" minimum. Section 3, Paragraph 3.7, of the bid solicitation, entitled "Vehicle Body", requires an interior body height of 84" minimum, and an interior width of 92" minimum.

Miami-Dade Water and Sewer staff has reviewed the bids and Department of Procurement staff has determined that the areas cited above, require a determination of responsiveness.

Attached you will find a copy of the bid submittals for the vendor cited above, a copy of Bid Solicitation 9252-WS, and related addendum.

If you have any questions, please contact me at 305-375-2102 or via email address mpablo@miamidade.gov.

Thank you very much for your attention to this matter.

Hugo Benitez
Assistant County Attorney
Request for Responsiveness Determination on ITB No. 9252-WS
Page 3

Cc: Ester Solloa (CAO)
Clerk of Board
Bid File

Attachments: Bid Solicitation 9252-WS
Bid Addendum No. 1
Aries Original Bid Submittal
Aries Alternate Bid Submittal
Cues bid submittal
Email communications with Aries



MEMORANDUM

TO: LISTED DISTRIBUTION

DATE: July 15, 2010

FROM: Diane Collins, Acting Division Chief
Clerk of the Board Division

Diane Collins

SUBJECT: Bid Protest – Bid No. 9252-WS
Sewer Inspection and Grout Repair
Vehicles for Miami-Dade Water and
Sewer Department

Pursuant to Section 2-8.4 of the Code and Implementing Order 3-21, Bid Protest Procedures, a bid protest was filed in the Clerk of the Board's Office on Tuesday, July 13, 2010, in connection with the foregoing contract. The protest was filed by James P. Lenahan, President and CEO, representing Aries Industries, Inc.

A filing fee in the amount of \$3,000.00 was submitted with the bid protest.

If you have any questions pertaining to this protest, please contact my assistant in charge of bid protest procedures Fara C. Diaz at Ext. 1293.

DC/fcd
Attachments

DISTRIBUTION:

Board of County Commissioners (via email)
George Burgess, County Manager (via email)
Howard Piper, Assistant County Manager (via email)
Hugo Benitez, Assistant County Attorney (via email)
Henry Gillman, Assistant County Attorney (via email)
Charles Anderson, Commission Auditor (via email)
Miriam Singer, Director, Dept. of Procurement Mgmt. (via email)
Pablo Martinez, CPPB, Senior Procurement Contracting Agent, DPM (via email)
Walter Fogarty, DPM, (via email)
John Renfrow, Director, Miami-Dade Water & Sewer Dept. (via email)



Aries Industries Incorporated
 550 Elizabeth Street
 Waukesha, Wisconsin 53186
 Phone: 262-896-7205
 800-234-7205
 Fax: 262-896-7099

July 12, 2010

Clerk of the Board Division
 Stephen P. Clark Center
 111 NW 1st Street Suite 17-202
 Miami, FL 33126

CLERK OF THE BOARD
 2010 JUL 13 PM 2:22
 CLERK: CIRCUIT & COUNTY COURTS
 DEDE COUNTY, FLA.
 #1

Dear Clerk of the Board,

We have received the Award Recommendation Letter dated July 8th for bid 9252-WS. We intend to file a formal protest against this award recommendation. We are very disappointed in the County's finding our proposal non-responsive. We challenge the validity upon which the "facts" section of the memorandum of June 10th by Henry Gillman, Assistant County Attorney, is based.

The first issue is Aries non-responsiveness is based on the fact that our LED lights for our camera are not field-replaceable. The process of changing the lights in an Aries camera involves removal of (4) cap screws and the light assembly installs on pins and can be easily removed and installed with pliers. These tools are provided with our standard tool kit. Our camera's LED light modules are rated for 10,000 hours of operation, and we use this estimated product life to consider the lights as "maintenance-free." The use of this term does not automatically regard the lights as unable to be repaired in the field. At no point during the evaluation period was Aries asked to explain how the camera lights are field-replaceable or to explain the maintenance-free aspect of our spec. Our product meets the specification, and establishes Aries as responsive on this issue.

The second issue of protest is Aries non-responsiveness is based on the fact that our pole camera transmitter and battery are not housed in the pole assembly. Specification 3.41.6 clearly states that these devices are to be, "incorporated into the pole assembly." Our design meets this specification. Pictures were provided on May 20th in response to an inquiry from Mr. Pablo Martinez that illustrated the current Aries design, and that the transmitter and battery housing are incorporated as part of the pole assembly. The specification does not expressly state that the transmitter and battery must be housed inside the pole component itself. Our product meets the specification, and establishes Aries as responsive on this issue.

A final issue leading to our protest is the statement made and re-iterated during the course of the pre-bid meeting, attended by Pablo Martinez, Larry Decker, and Miguel Pichardo, among others, that the County did consider Aries and Cues as equivalent and acceptable systems, and that the major deciding factor would be price and delivery. Aries price is lower than Cues, and the Aries delivery commitment is stated within the County's requirement as specified.

Manufacturers of Pipeline Inspection, Test and Seal Systems
 Regional Offices: Pompano Beach, Florida Fresno, California Mississauga, ON
 www.ariesindustries.com

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*Aries Industries Incorporated
550 Elizabeth Street
Waukesha, Wisconsin 53186
Phone: 262-896-7205
800-234-7205
Fax: 262-896-7099*

We feel strongly that the facts and the support information listed above are worthy of a formal protest of the award recommendation of July 8th. Aries has a local office in Broward County which is able to fully support these systems. Aries also has an experienced engineering staff with a substantial knowledge base regarding in-place rehabilitation of pipe lines. Many other benefits, aside from price, are available to the County by purchasing Aries equipment.

Please consider the information referenced above at your earliest convenience. I am available at the Waukesha office number listed at the top of the page (ext. 5652) if you have any questions or need further information. I am also available by email at Jim.Lenahan@ariesindustries.com throughout the day. Please do not hesitate to contact us for any further information you may need.

Sincerely,

A handwritten signature in cursive script, appearing to read "James P. Lenahan".

James P. Lenahan
President and CEO
Aries Industries, Inc.
800-234-7205 x5652

*Manufacturers of Pipeline Inspection, Test and Seal Systems
Regional Offices: Pompano Beach, Florida Fresno, California Mississauga, ON
www.ariesindustries.com*

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Memorandum



Date: August 4, 2010

To: Pablo Martinez, CPPB
Senior Procurement Contracting Agent
Department of Procurement Management

From: Henry N. Gillman
Assistant County Attorney

Subject: ITB No. 9252-WS: Sewer Inspection and Grout Repair Vehicles for Miami-Dadse Water and Sewer Department

This memorandum supersedes and replaces the memorandum dated June 10, 2010 in which the undersigned found that the bid submitted by Aries Industries, Inc. ("Aries") was nonresponsive (attached hereto).

On February 17, 2010, the Department of Procurement Management ("DPM") received bids from two bidders in response to ITB No. 9252-WS: Sewer Inspection and Grout Repair Vehicles for Miami Dade Water and Sewer Department ("ITB"). The purpose of the ITB is to purchase 9 sewer inspection and grout repair vehicles for the Miami-Dade Water and Sewer Department ("WASD"). Aries was the low bidder with a bid price of \$185,430.00 per vehicle for a total of \$1,668,870.00. ELXSI d/b/a CUES submitted a bid price of \$187,000.00 per vehicle for a total of \$1,683,000.00.

On May 6, 2010, DPM requested a responsiveness opinion from the County Attorney's Office (attached hereto). The June 10, 2010 opinion from the undersigned Assistant County Attorney was based on the information provided in DPM's May 6, 2010 memorandum. DPM's memo referred, inter alia, to certain technical specifications regarding two types of cameras. Section 3.26 of the technical specifications required that the Pan, Tilt and Optical Zoom Camera have built-in field replaceable lamps. Section 3.26.3 specifically provides that "cameras that do not contain field replacement lighting will be deemed unacceptable." Section 3.27.9 provides that the LED light module must be able to be installed by the operator in the field. For the Pole Mounted Camera Inspection System, Section 3.41.6 of the technical specifications required that the wireless transmitter and battery be incorporated in the Pole Assembly.

The undersigned treated these requirements as issues of responsiveness instead of responsibility and found that Aries' bid was nonresponsive. However, upon further review and inspection of Aries' bid and applicable legal authorities, the undersigned has reconsidered his opinion and determined that Aries' bid should not have been rejected as nonresponsive because the requirements at issue are related to Aries' responsibility, not the responsiveness of the bid.

As a general matter, a responsive proposal "is submitted on the correct forms, and contains all required information, signatures, and notarizations." *Intercontinental Properties, Inc. v. State Department of Health and Rehabilitative Services*, 606 So. 2d 380 (Fla. 3rd DCA 1992). A bid is not responsive if it cannot form the basis of a contract, or if it contains deviations which provide the bidder with a material advantage over other bidders. *Robinson Electric Co. v. Dade County*, 417 So. 2d 1032, 0134 (Fla. 3rd DCA 1982). Whether a bid is responsive concerns a bidder's unequivocal promise, as shown on the face of its bid, to provide the items or services called for by the material terms of the bid. *In the Matter of Red John's Stone, Inc.*, 1998 WL 869550 (Comp. Gen. 1998). In discussing responsibility and bid responsiveness, the Comptroller General stated: "Unless something on the face of the bid limits, reduces, or modifies the obligation of a prospective contractor to perform in

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accordance with the terms of the invitation, the bid must be considered responsive." *Comptroller General to the Secretary of the Army*, 1973 WL 8799 (Comp. Gen. 1973) (citations omitted).

Aries' bid includes a "Compliance with Bid Requirements Checklist" in which Aries affirmatively indicated that its proposal complies with the requirements of each numbered section within the solicitation document and technical specifications (attached hereto). Aries' Checklist and technical components of Aries' bid reflects that Aries did not expressly take exception to any of the bid requirements.

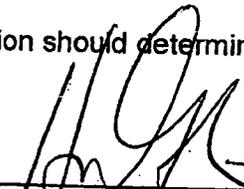
Since Aries unequivocally promised to provide the equipment required by the ITB and Aries' proposal does not expressly take exceptions to the requirements in the ITB, Aries has obligated itself to perform in accordance with the terms of the ITB. Thus, Aries bid is responsive.

Whether a bidder is responsible concerns whether the bidder can perform the work as provided in the bid. The term "responsible" has been defined as follows:

The term 'responsible' is not limited in its meaning to financial resources and ability. * * * authorizations of this kind are held to invest public authorities with discretionary power to pass upon the honesty and integrity of the bidder necessary to a faithful performance of the contract, upon his skill and business judgment, his experience and his facilities for carrying out the contract, his previous conduct under other contracts, and the quality of his previous work as well as to pass upon his pecuniary ability.

Couch Construction Co. v. Department of Transportation, 361 So.2d 184 (Fla. 1st DCA 1978). The bidder's ability to perform may be furnished up to the time of award. *Matter of Joint Venture Conscoop-Meyerinck*, 1998 WL 119279 (Comp Gen. 1998).

Since Aries bid is responsive, the Administration should determine whether Aries is a responsible bidder based on the above analysis.



Assistant County Attorney

Memorandum



Date: June 10, 2010

To: Pablo Martinez, CPPB
Senior Procurement Contracting Agent
Department of Procurement Management

From: Henry Gillman
Assistant County Attorney

Subject: ITB No. 9252-WS: Sewer Inspection and Grout Repair Vehicles for Miami-Dade Water and Sewer Department

You have requested an opinion on whether the bids by ARIES Industries Inc. and ELXIS, Inc. d/b/a CUES ("CUES") are responsive to the above-referenced Invitation to Bid ("ITB"). For the reasons set forth below, it is our opinion that the bid by ARIES is nonresponsive and the bid by CUES is responsive to the ITB.

FACTS

We rely on the information provided in your memorandum to this office dated May 6, 2009 attached hereto. The technical specifications for Bid no. 9252-WS include various requirements for the vehicle and camera that will be used to perform sewer inspections and grout repair. Both the primary bid and alternate bid submitted by ARIES include several deviations to the requirements in the ITB. For example, both of ARIES' bids do not include an inspection camera with field replaceable LED lamps as required by Sections 3.26.3 and 3.27.9 of the ITB. Section 3.26.3 states "The Optical Zoom Pan and Tilt Camera must have built in field replaceable lamps that provide lighting for 6"-42" pipe with no requirement to added external lighting." Section 3.27.9 states: "The LED light module must be able to be installed as an integrated LED light module by the operator in the field as an alternative to the halogen based light module." Contrary to the bid specifications, ARIES' bid includes an inspection camera with maintenance free LED lights. Additionally, neither bid submitted by ARIES includes a pole mounted camera inspection system with the transmitter and battery housed in the pole assembly. Section 3.41.6 requires that the transmitter for wireless video and the battery be incorporated in the pole assembly. ARIES bid includes a camera with the transmitter and battery housed on the outside of the pole.

Section 3.7 of the Technical Specifications requires that the interior of the "step van" style vehicle be a minimum of 92 inches wide and 84 inches in height. The dimensions for the step van in CUES' bid provides for a minimum of 90 inches wide and 82 inches in height.

You indicated that the above specifications are material requirements for the camera and the vehicle. In response to requests for clarification regarding their bids, ARIES confirmed that the inspection camera had maintenance-free lights and that the battery is housed at the top of the pole camera assembly. A picture of the camera shows that the battery is on the outside of the pole. CUES provided documentation that the dimensions of the step van body in its bid meets the minimum specifications for the height and width required by the ITB.

DISCUSSION

Based on the facts set forth above, DPM may not consider ARIES' bid as responsive to the ITB. In general, a bid may be rejected or disregarded if there is a material variance between the bid and the advertisement. See *Robinson Electric Co. v. Dade County*, 417 So. 2d 1032, (Fla. 3d DCA 1982).

Only when a variance is immaterial or "minor" is a bidder permitted to withdraw the variance. *Harry Pepper & Associates, Inc. v. City of Cape Coral*, 352 So. 2d 1190, 1129 (Fla. 2nd DCA 1977) ("a bidder cannot be permitted to change his bid after the bids have been opened, except to cure minor irregularities"). Bidders who propose impermissible exceptions to invitations to bid do so at the risk those exceptions are deemed material to the proposal and having their bid rejected as nonresponsive.

A determination of whether a variance or irregularity is minor is fact specific and may differ from bid to bid. There is a two part test to determine if a specific noncompliance in a bid constitutes a substantial and thus nonwaivable issue: (1) whether the effect of the waiver would be to deprive the County of the assurance that the contract would be entered into, performed and guaranteed according to its specific requirements; and (2) whether it would adversely affect competitive bidding by placing a bidder in a position of advantage over other bidders. See e.g. *Glatstein v. City of Miami*, 399 So. 2d 1005 (Fla. 3rd DCA), rev. denied, 407 So. 2d 1102 (Fla. 1981).

Here, ARIES' bid deviated from the bid specifications, namely, with regard to the requirement that the LED lights be replaceable in the field and that the battery be housed in the pole assembly. Section 3.26.3 of the ITB expressly states: "cameras that do not contain field replaceable lighting will be deemed not acceptable." Clearly, the Department determined that replacement lighting is a material requirement of the ITB. Since ARIES bid includes material variances or exceptions to the ITB, such variances are not irregularities or technicalities that may be waived pursuant to Section 1.5 of the ITB.

Based on the foregoing, it is our opinion that the bid by ARIES is nonresponsive to the ITB.

Date: May 6, 2010

To: Hugo Benitez
Assistant County Attorney
County Attorney's Office

From: Pablo Martinez, CPPB
Senior Procurement Contracting Agent
Department of Procurement Management

Subject: Request for Responsiveness Determination on ITB No. 9252-WS: Sewer Inspection and Grout Repair Vehicles for Miami-Dade Water and Sewer Department

On February 17, 2010, bids were received for the subject solicitation. Please provide a legal opinion on the responsiveness of the bids received from the following vendors. In addition, please advise if any of the areas cited below fall within the "irregularities or technicalities" that may be waived, as per Section 1, Paragraph 1.5, A, of the bid solicitation.

Vendor

Aries Industries, Inc. (Original Bid)

Observations

1) This vendor offered an inspection camera with maintenance-free LED lights. Section 3, Paragraph 3.26 and 3.27.9, of the bid specifications require that the LED lamps be replaceable in the field.

2) This vendor is offering an air-cooled electrical generator, and notes the following in their proposal: "The manufacturer advises against the use of slide out rails for generator mounting. The rails interfere with airflow across the bottom of the unit. This results in the unit overheating and shutting down." Section 3, Paragraph 3.13.2, of the bid, requires that the generator be mounted on a slide-out tray.

3) This vendor is offering a pole camera inspection system with the battery housed in the pole camera assembly, at the top of the pole. Section 3, Paragraph 3.41.6, requires that the battery be housed in the pole assembly.

4) A copy of this vendor's State of Florida Motor Vehicle Dealer License was requested, as required by Chapter 320 of the Florida Statutes (SS320.27), but the vendor did not have a motor vehicle dealer license and did not provide the license within the timeframe allowed by the County (February 26, 2010), as per Section 2, Paragraph 2.9.19, of the bid document. Recently, Aries acquired the motor vehicle dealer license and provided a copy of the license to the County.

Vendor
Aries Industries, Inc. (Alternate Bid)

Observations

1) This vendor offered an inspection camera with maintenance-free LED lights. Section 3, Paragraph 3.26 and 3.27.9, of the bid specifications require that the LED lamps be replaceable in the field.

2) This vendor is offering a pole camera inspection system with the battery housed in the pole camera assembly, at the top of the pole. Section 3, Paragraph 3.41.6, requires that the battery be housed in the pole assembly.

3) A copy of this vendor's State of Florida Motor Vehicle Dealer License was requested, as required by Chapter 320 of the Florida Statutes (SS320.27), but the vendor did not have a motor vehicle dealer license and did not provide the license within the timeframe allowed by the County (February 26, 2010), as per Section 2, Paragraph 2.9.19, of the bid document. Recently, Aries acquired the motor vehicle dealer license and provided a copy of the license to the County.

Vendor
ELXIS, Inc. d/b/a CUES

Observations

This vendor offered a step van body, with an interior height of 82" minimum, and a width of 90" minimum. Section 3, Paragraph 3.7, of the bid solicitation, entitled "Vehicle Body", requires an interior body height of 84" minimum, and an interior width of 92" minimum.

Miami-Dade Water and Sewer staff has reviewed the bids and Department of Procurement staff has determined that the areas cited above, require a determination of responsiveness.

Attached you will find a copy of the bid submittals for the vendor cited above, a copy of Bid Solicitation 9252-WS, and related addendum.

If you have any questions, please contact me at 305-375-2102 or via email address mpablo@miamidade.gov.

Thank you very much for your attention to this matter.

Sewer Inspection and Grout Repair Vehicles for Miami-Dade Water and Sewer Department

FIRM NAME: Aries Industries, Inc.

Sewer Inspection and Grout Repair Vehicles

Item No.	Description	Estimated Quantities	Unit Price (Each)	Extended Total
1.	Sewer Inspection and Grout Repair Vehicle, as per the Technical Specifications in Section 3, of this solicitation.	9	\$ 185,430.00	\$ 1,668,870.00
	Manufacturer: Ford			
	Model No.: F59			
	Engine: 6.8L V10 Ford Gas			
	Transmission: Ford Automatic 5-Speed			
			AGGREGATE TOTAL	\$ 1,668,870.00

Pursuant to Section 2, Paragraph 2.9.14, of this bid solicitation, indicate the delivery lead-time below.

Delivery: 270 Days A.R.O. (After Receipt of Order)

Bidder's Submittal Checklist

- In accordance with Section 2, Paragraph 2.6.1, and Section 3, Paragraph 3.3, of this bid solicitation, bidders shall furnish a loaded and unloaded weight chart stipulating the GVWR and GAWR of the vehicle being offered, with the bid submittal, or during the evaluation period.
- In accordance with Section 2, Paragraph 2.6.1, bidders shall furnish the following with the bid submittal proposal, or during the evaluation period:
 - A. Detailed component list
 - B. Complete system specifications
 - C. Literature describing all major components
 - D. List of users of similar type equipment, a minimum of 3 references of sewer utilities shall be provided.

REFERENCES: **(SEE SECTION 8 OF ARIES PROPOSAL FOR REFERENCES)**

NAME OF ORGANIZATION	NAME OF CONTACT PERSON	PHONE NO. / EMAIL	DESCRIBE THE TYPE OF EQUIPMENT

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FIRM NAME: Aries Industries, Inc.

Compliance with Bid Requirements Check List

Bidder must indicate whether or not your proposal complies with the requirements of each numbered section within the solicitation document and Technical Specifications. Provide comments where appropriate.

Bid Solicitation Section	Comply	Do Not Comply	Comments
Section 1 - General Terms and Conditions	✓		
Section 2 - Special Terms and Conditions			
2.1 PURPOSE	✓		
2.2 SMALL BUSINESS CONTRACT MEASURES	✓		
2.3 PRE-BID CONFERENCE	✓		
2.4 TERM OF CONTRACT: UPON DELIVERY	✓		
2.5 OPTION TO RENEW	N/A	N/A	
2.6 METHOD OF AWARD TO SINGLE VENDOR	✓		
Paragraph 2.6.1 - Required Bid Submittals	✓		
2.7 PRICES SHALL BE FIXED & FIRM FOR TERM OF CONTRACT	✓		
2.8 EXAMINATION OF COUNTY FACILITIES AND INSPECTION OF COUNTY EQUIPMENT	N/A	N/A	
2.9 SPECIAL CONDITIONS FOR BIDDING MOBILE EQUIPMENT			
BIDDING EQUAL PRODUCTS, NO SUBSTITUTION COMPONENTS, MANUFACTURER'S CATALOGUES / BROCHURES AND PRODUCT DEMONSTRATIONS	✓		
Paragraph 2.9.1	✓		
Paragraph 2.9.2	✓		
Paragraph 2.9.3	✓		
Paragraph 2.9.4	✓		
Paragraph 2.9.5	✓		
EQUIPMENT FURNISHED	✓		
Paragraph 2.9.6	✓		
Paragraph 2.9.7	✓		
BIDDER STATUS	✓		
Paragraph 2.9.8	✓		
Paragraph 2.9.9	✓		
WARRANTY REQUIREMENTS	✓		
Paragraph 2.9.10	✓		
Paragraph 2.9.11	✓		
Paragraph 2.9.12	✓		
DELIVERY AND PAYMENT	✓		
Paragraph 2.9.13	✓		
Paragraph 2.9.14	✓		
Paragraph 2.9.15	✓		
Paragraph 2.9.16	✓		
Paragraph 2.9.17	✓		

Sewer Inspection and Grout Repair Vehicles for Miami-Dade Water and Sewer Department

FIRM NAME: Aries Industries, Inc.

Bid Solicitation Section	Comply	Do Not Comply	Comments
PARTS, REPAIRS AND TRAINING MANUALS	✓		
Paragraph 2.9.18	✓		
MOTOR VEHICLE LICENSE REQUIREMENT	✓		
Paragraph 2.9.19	✓		
PRE-CONSTRUCTION CONFERENCE	✓		
Paragraph 2.9.20	✓		
PRODUCTION/PROTOTYPE INSPECTION	✓		
Paragraph 2.9.21	✓		
2.10 LIQUIDATED DAMAGES	✓		
2.11 INDEMNIFICATION AND INSURANCE	✓		
2.12 BID GUARANTY	N/A	N/A	
2.13 PERFORMANCE BOND	N/A	N/A	
2.14 CERTIFICATIONS	N/A	N/A	
2.15 METHOD OF PAYMENT	✓		
2.16 SHIPPING TERMS	✓		
2.17 DELIVERY REQUIREMENTS	✓		
2.18 BACK ORDER ALLOWANCES	N/A	N/A	
2.19 WARRANTY REQUIREMENTS	✓		
2.20 CONTACT PERSON	N/A	N/A	
2.21 USER ACCESS PROGRAM	✓		
2.22 DEMONSTRATION OF COMPETENCY REQUIREMENTS:	✓		
SECTION 3 TECHNICAL SPECIFICATIONS			
3.1 GENERAL REQUIREMENTS	✓		
3.2 VEHICLE REQUIREMENTS	✓		
3.3 GROSS VEHICLE WEIGHT RATING	✓		
3.4 ENGINE AND TRANSMISSION	✓		
3.5 WHEELBASE	✓		
3.6 TIRES	✓		
3.7 VEHICLE BODY	✓		
3.7.1 BODY	✓		
3.7.2 CROSS MEMBERS	✓		
3.7.3 LONG SILLS	✓		
3.7.4 FLOOR	✓		
3.7.5 REAR DOORS	✓		
3.7.6 ROOF	✓		
3.7.7 EXTERIOR	✓		
3.7.8 GRAB HANDLES	✓		
3.7.9 ELECTRICAL	✓		
3.8 AIR-CONDITIONING	✓		
3.9 EXTERIOR LIGHTING	✓		
3.10 INTERIOR VAN BODY	✓		
3.11 CONTROL ROOM	✓		
3.12 EQUIPMENT/STORAGE ROOM	✓		
3.13 GENERATOR WITH ELECTRIC START	✓		

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FIRM NAME: Aries Industries, Inc.

Bid Solicitation Section	Comply	Do Not Comply	Comments
3.14 SYSTEM ENGINEERING PANEL	✓		
3.15 CAMERA POWER CONTROL UNIT - MULTI CONDUCTOR	✓		
3.16 POWER CONTROL UNIT MINIMUM TECHNICAL REQUIREMENTS	✓		
3.17 POWER CONTROL UNIT REMOTE CAMERA ADJUSTMENT	✓		
3.17.1 FOCUS CONTROL	✓		
3.17.2 AUTOMATIC IRIS CONTROL	✓		
3.18 17" COLOR FLATSCREEN LCD MONITOR - NTSC, PAL AUTO SELECT	✓		
3.19 VIDEO FOOTAGE AND DATA SYSTEM	✓		
Paragraph 3.19.1	✓		
Paragraph 3.19.2	✓		
Paragraph 3.19.3	✓		
3.19.4 IMAGE CAPTURE	✓		
3.19.5 VIDEO CAPTURE	✓		
3.19.6 DATABASE	✓		
3.19.7 USER INTERFACE	✓		
3.19.8 INSPECTION	✓		
3.19.9 DATA FILTER	✓		
3.19.10 TITLER	✓		
3.19.11 PRINTER	✓		
3.19.12 MODULES	✓		
3.19.13 SUPPORT	✓		
3.20 ESRI PLUG-IN MODULE	✓		
3.20.1 ARCGIS INTEGRATION	✓		
3.20.2 IMPORTING ASSET DATA FROM ARCGIS TO TV UNIT'S SOFTWARE PROGRAM	✓		
3.20.3 MAP VIEW PLUG-IN	✓		
3.20.4 EXPORTING ASSETS FROM UNIT'S SOFTWARE	✓		
3.21 INCLINATION MODULE	✓		
3.21.1 INCLINOMETER MODULE	✓		
3.22 GROUT MODULE	✓		
3.23 FOOTAGE AND DATA GENERATOR	✓		
3.23.1 INPUTS	✓		
3.23.2 OUTPUTS	✓		
3.23.3 DISPLAY LINES	✓		
3.24 SOFTWARE FEATURES	✓		
3.24.1 DISPLAY MODE	✓		
3.24.2 CONTROLS	✓		
3.24.3 HARD COPY DATA	✓		
3.24.4 POWER	✓		
3.24.5 BATTERY BACKUP	✓		
3.25 INSPECTION REPORTS	✓		
3.25.1 DISTANCE COUNTERS	✓		
3.25.2 DISPLAY OPTIONS	✓		
3.25.3 GENERAL INFORMATION	✓		

Sewer Inspection and Grout Repair Vehicles for Miami-Dade Water and Sewer Department

FIRM NAME: Aries Industries, Inc.

Bid Solicitation Section	Comply	Do Not Comply	Comments
3.25.4 POINTING ARROW	✓		
3.25.5 ONSCREEN COMMENTS	✓		
3.25.6 DATE AND TIME	✓		
3.25.7 PRESSURE	✓		
3.25.8 INCLINATION	✓		
3.25.9 DEFECT CODES	✓		
3.26 PAN, TILT, AND OPTICAL ZOOM CAMERA	✓		
3.27 CAMERA			
3.27.1 through 3.27.4	✓		
3.27.5 CAMERA OPTICAL AND DIGITAL ZOOM	✓		
3.27.6 PAN AND ROTATE SPEEDS	✓		
3.27.7 CAMERA HOUSING	✓		
3.27.8 MOUNTING FORK	✓		
3.27.9 CAMERA LIGHTING	✓		
3.27.10 CAMERA CONTROLLER	✓		
3.28 ELECTRICAL SPECIFICATIONS AND CAMERA REQUIREMENTS	✓		
3.28.1 VIDEO OUTPUT	✓		
3.28.2 IMAGE PICK-UP DEVICE	✓		
3.28.3 PICTURE ELEMENTS (PIXELS)	✓		
3.28.4 LENS	✓		
3.28.5 DIGITAL ZOOM	✓		
3.28.6 FIELD OF VIEW	✓		
3.28.7 RESOLUTION LINES	✓		
3.28.8 ELECTRONIC SHUTTER	✓		
3.28.9 MINIMUM ILLUMINATION	✓		
3.28.10 INPUT CAMERA VOLTAGE	✓		
3.28.11 HEAD ROTATION	✓		
3.28.12 INTERNAL DIAGNOSTICS	✓		
3.28.13 WORKING PRESSURE	✓		
3.28.14 OPERATING TEMPERATURE	✓		
3.28.15 COMPATIBLE PCU (POWER CONTROL UNITS)	✓		
3.28.16 DIMENSIONS	✓		
3.29 TV CABLE REEL ASSEMBLY	✓		
3.30 TV CABLE REEL SLIP RING ASSEMBLY	✓		
3.31 CABLE FOOTAGE METER, LOCAL / REMOTE ELECTRONIC READOUT:	✓		
3.32 CONTROLLER TV CABLE REEL MOTOR/POWER WINCH MOTOR	✓		
3.33 TV CABLE REEL CONTROL REMOTE AND LOCAL	✓		
3.34 COMBINATION VIDEO TRANSMISSION / TOW CABLE - MULTI-CONDUCTOR	✓		
3.34.1 TV CABLE	✓		
3.34.2 CABLE JACKET	✓		
3.34.3 CABLE CONNECTION	✓		
3.35 MULTI-GROUT CHEMICAL LOW VISCOSITY PUMPING SYSTEM	✓		

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FIRM NAME: Aries Industries, Inc.

Bid Solicitation Section	Comply	Do Not Comply	Comments
3.35.1 CHEMICAL TANK ASSEMBLY	✓		
3.35.2 CHEMICAL HOSE REEL ASSEMBLY	✓		
3.35.3 PENTA 5 LINE CHEMICAL / AIR HOSE	✓		
3.35.4 CHEMICAL HANDLING / SAFETY PACKAGE	✓		
3.35.5 TEST AND SEAL CONTROL CENTER	✓		
3.35.6 REMOTE PRESSURE SENSING	✓		
3.35.7 TEST AND SEAL PACKERS	✓		
3.35.8 ELECTRIC AIR COMPRESSOR	✓		
3.36 REMOTE ELECTRIC POWER WINCH	✓		
3.37 ELECTRIC WINCH POWER CABLE	✓		
3.38 LOW PROFILE CAMERA TRANSPORTATION SKID (6" PIPE SIZES)	✓		
3.38.1 CAMERA TRANSPORTATION SKIDS (8" - 30" PIPE SIZES)	✓		
3.38.2 SKID SPACER PLATES	✓		
3.38.3 SKID RUNNERS	✓		
3.38.4 SKID GUARDS	✓		
3.39 SELF-PROPELLED CAMERA TRANSPORTER TRAC-DRIVEN	✓		
3.39.1 TRANSPORTER	✓		
3.39.2 CONTROLLER	✓		
3.39.3 WEIGHTED TRACK WIDTH ADJUSTMENT BARS	✓		
3.40 WHEELED COMPACT CAMERA TRANSPORTER WITH PROPORTIONAL STEERING	✓		
3.40.1 through 3.40.5			
3.40.6 TRANSPORTER	✓		
3.40.7 CAMERA COMPATIBILITY	✓		
3.40.8 POWER SUPPLY	✓		
3.40.9 TRANSPORTER CONTROLLER	✓		
3.41 POLE MOUNTED CAMERA INSPECTION SYSTEM - COLOR/IR (B/W) BASE UNIT	✓		
3.41.1 CAMERA ASSEMBLY	✓		
3.41.2 CAMERA HOUSING	✓		
3.41.3 LIGHT RING ASSEMBLY	✓		
3.41.4 TELESCOPING POLE	✓		
3.41.5 ELECTRICAL SPECIFICATIONS AND CAMERA REQUIREMENTS	✓		
3.41.6 WIRELESS VIDEO TRANSMISSION WITH INTERNAL BATTERY AND TRANSMITTER BUILT-IN POLE ASSEMBLY	✓		
3.41.7 TRANSMITTER	✓		
3.41.8 BATTERY	✓		
3.41.9 MISCELLANEOUS	✓		

Sewer Inspection and Grout Repair Vehicles for Miami-Dade Water and Sewer Department

FIRM NAME: Aries Industries, Inc.

Bid Solicitation Section	Comply	Do Not Comply	Comments
3.41.10 TRANSMITTER SPECIFICATIONS	✓		
3.42 CABLE GUIDE EQUIPMENT, TV AND SEAL	✓		
3.43 RETRIEVAL TOOL FOR CAMERA, SKIDS AND TRANSPORTER	✓		
3.44 PEDESTAL CRANE	✓		
3.44.1 CRANE TYPE / CAPACITY	✓		
3.44.2 BOOM HEIGHT	✓		
3.44.3 BOOM LENGTH	✓		
3.44.4 ROTATION	✓		
3.44.5 ROTATION LOCK	✓		
3.44.6 HOIST	✓		
3.44.7 CABLE	✓		
3.44.8 CONTROL	✓		
3.44.9 POWER SOURCE	✓		
3.44.10 WIRING	✓		
3.44.11 SAFETY	✓		
3.44.12 FINISH COATING	✓		
3.44.13 WARRANTY	✓		
3.45 TV MAINTENANCE TOOL KIT	✓		
3.46 OPERATING MANUALS	✓		
3.47 SYSTEMS PARTS BOOK	✓		
3.48 ON-SITE TRAINING	✓		

SECTION 4
BID SUBMITTAL FOR:

Sewer Inspection and Grout Repair Vehicles for Miami-Dade Water and Sewer Department

ACKNOWLEDGEMENT OF ADDENDA

INSTRUCTIONS: COMPLETE PART I OR PART II, WHICHEVER APPLIES

PART I:

LIST BELOW ARE THE DATES OF ISSUE FOR EACH ADDENDUM RECEIVED IN CONNECTION WITH THIS BID

- Addendum #1, Dated February 10, 2010
- Addendum #2, Dated _____
- Addendum #3, Dated _____
- Addendum #4, Dated _____
- Addendum #5, Dated _____
- Addendum #6, Dated _____
- Addendum #7, Dated _____
- Addendum #8, Dated _____

PART II:

NO ADDENDUM WAS RECEIVED IN CONNECTION WITH THIS BID

FIRM NAME: Aries Industries, Inc.

AUTHORIZED SIGNATURE: *James P. Lenahan* DATE: 02/15/2010
James P. Lenahan

TITLE OF OFFICER: President/CEO

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BID SUBMITTAL FORM

Bid Title: Sewer Inspection and Grout Repair Vehicles for Miami-Dade Water and Sewer Department

By signing this Bid Submittal Form the Bidder certifies that it satisfies all legal requirements (as an entity) to do business with the County, including all Conflict of Interest and Code of Ethics provisions in Section 2-11 of the Miami-Dade County Code. Any County employee or member of his or her immediate family seeking to contract with the County shall seek a conflict of interest opinion from the Miami-Dade County Ethics Commission prior to submittal of a Bid response or application of any type to contract with the County by the employee or his or her immediate family and file a copy of that request for opinion and any opinion or waiver from the Board of County Commissioners with the Clerk of the Board. The affected employee shall file with the Clerk of the Board a statement in a form satisfactory to the Clerk disclosing the employee's interest or the interest of his or her immediate family in the proposed contract and the nature of the intended contract at the same time as or before submitting a Bid, response, or application of any type to contract with the County. Also a copy of the request for a conflict of interest opinion from the Ethics Commission and any corresponding opinion, or any waiver issued by the Board of County Commissioners, must be submitted with the response to the solicitation.

In accordance with Sec. 2-11.1(s) of the County Code as amended, prior to conducting any lobbying regarding this solicitation, the Bidder must file the appropriate form with the Clerk of the Board stating that a particular lobbyist is authorized to represent the Bidder. Failure to file the appropriate form in relation to each solicitation may be considered as evidence that the Bidder is not a responsible contractor. The Bidder confirms that this Bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a Bid for the same goods and/or services and in all respects is without collusion, and that the Bidder will accept any resultant award. Further, the undersigned acknowledges that award of a contract is contingent upon vendor registration. Failure to register as a vendor within the specified time may result in your firm not being considered for award.

Pursuant to Miami-Dade County Ordinance 94-34, any individual, corporation, partnership, joint venture or other legal entity having an officer, director, or executive who has been convicted of a felony during the past ten (10) years shall disclose this information prior to entering into a contract with or receiving funding from the County.

Place a check mark here only if bidder has such conviction to disclose to comply with this requirement.

LOCAL PREFERENCE CERTIFICATION: For the purpose of this certification, a "local business" is a business located within the limits of Miami-Dade County (or Broward County in accordance with the Interlocal Agreement between the two counties) that conforms with the provisions of Section 1.10 of the General Terms and Conditions of this solicitation and contributes to the economic development of the community in a verifiable and measurable way. This may include, but not be limited to, the retention and expansion of employment opportunities and the support and increase to the County's tax base.

Place a check mark here only if affirming bidder meets requirements for Local Preference. Failure to complete this certification at this time (by checking the box above) shall render the vendor ineligible for Local Preference.

LOCAL CERTIFIED SERVICE-DISABLED VETERAN BUSINESS ENTERPRISE CERTIFICATION: A Local Certified Service-Disabled Veteran Business Enterprise is a firm that is (a) a local business pursuant to Section 2-8.5 of the Code of Miami-Dade County and (b) prior to bid submission is certified by the State of Florida Department of Management Services as a service-disabled veteran business enterprise pursuant to Section 295.187 of the Florida Statutes.

Place a check mark here only if affirming bidder is a Local Certified Service-Disabled Veteran Business Enterprise. A copy of the certification must be submitted with this proposal.

COUNTY USER ACCESS PROGRAM (UAP): Joint purchase and entity revenue sharing program
For the County's information, the bidder is requested to indicate, at 'A' and 'B' below, its general interest in participating in the Joint Purchase Program of the County User Access Program (UAP) described in Section 2.21 of this contract solicitation, if that section is present in this solicitation document. Vendor participation in the Joint Purchase portion of the UAP is voluntary, and the bidder's expression of general interest at 'A' and 'B' below is for the County's information only and shall not be binding on the bidder.

A. If awarded this County contract, would you be interested in participating in the Joint Purchase portion of the UAP with respect to other governmental, quasi-governmental or not-for-profit entities located within the geographical boundaries of Miami-Dade County?
Yes _____ No X

B. If awarded this County contract, would you be interested in participating in the Joint Purchase portion of the UAP with respect to other governmental, quasi-governmental or not-for-profit entities located outside the geographical boundaries of Miami-Dade County?
Yes _____ No X

Firm Name: Aries Industries, Inc.
Street Address: 550 Elizabeth Street, Waukesha, WI 53186

Mailing Address (if different): (Same)
Telephone No. 800-234-7205 / 262-896-7205 Fax No. 262-896-7099

Email Address: mike.burczyk@ariesindustries.com FEIN No. 319152110611

Prompt Payment Terms: 0 % 45 days net (Please see paragraph 1.2 H of General Terms and Conditions)

Signature: James P. Lenahan (Signature of authorized agent)
***By signing this document the bidder agrees to all Terms and Conditions of this Solicitation and the resulting Contract**

Print Name: James P. Lenahan Title: President/CEO

THE EXECUTION OF THIS FORM CONSTITUTES THE UNEQUIVOCAL OFFER OF PROPOSER TO BE BOUND BY THE TERMS OF ITS PROPOSAL. FAILURE TO SIGN THIS SOLICITATION WHERE INDICATED ABOVE BY AN AUTHORIZED REPRESENTATIVE SHALL RENDER THE PROPOSAL NON-RESPONSIVE. THE COUNTY MAY, HOWEVER, IN ITS SOLE DISCRETION, ACCEPT ANY PROPOSAL THAT INCLUDES AN EXECUTED DOCUMENT WHICH UNEQUIVOCALLY BINDS THE PROPOSER TO THE TERMS OF ITS OFFER.

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August 27, 2010

- ADA Coordination
- Agenda Coordination
- Animal Services
- Art in Public Places
- Audit and Management Services
- Aviation
- Building
- Building Code Compliance
- Business Development
- Capital Improvements
- Citizens' Independent Transportation Trust
- Commission on Ethics and Public Trust
- Communications
- Community Action Agency
- Community & Economic Development
- Community Relations
- Consumer Services
- Corrections & Rehabilitation
- Cultural Affairs
- Elections
- Emergency Management
- Employee Relations
- Empowerment Trust
- Enterprise Technology Services
- Environmental Resources Management
- Fair Employment Practices
- Finance
- Fire Rescue
- General Services Administration
- Historic Preservation
- Homeless Trust
- Housing Agency
- Housing Finance Authority
- Human Services
- Independent Review Panel
- International Trade Consortium
- Juvenile Services
- Medical Examiner
- Metro-Miami Action Plan
- Metropolitan Planning Organization
- Park and Recreation
- Planning and Zoning
- Police
- Procurement Management**
- Property Appraisal
- Public Library System
- Public Works
- Safe Neighborhood Parks
- Seaport
- Solid Waste Management
- Strategic Business Management
- Team Metro
- Transit
- Task Force on Urban Economic Revitalization
- Vizcaya Museum And Gardens
- Water & Sewer

Via Email: All Responding Vendors (See Distribution List)

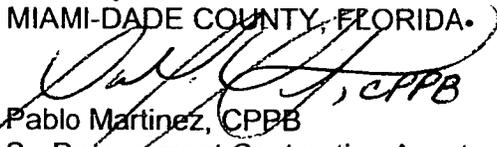
**SUBJECT: Bid No.: 9252-WS
Sewer Inspection and Grout Repair Vehicles**

Dear Vendors:

The County hereby rescinds the award recommendation letter, dated July 8, 2010, for the subject bid. See attached rescission memo, dated August 23, 2010. This solicitation is still under evaluation and the Cone of Silence is in effect as per Section 2-11.1(t) of the Code of Miami-Dade County.

If you have questions, please contact Pablo Martinez at 305-375-2102, or via email: mpablo@miamidade.gov.

Sincerely,
MIAMI-DADE COUNTY, FLORIDA.


Pablo Martinez, CPPB
Sr. Procurement Contracting Agent

- Distribution:
- Jim Lenahan (Aries)
 - John Kudis (Aries)
 - Mike Burczyk (Aries)
 - Murray Greenberg (Stearns Weaver)
 - Joe Jimenez (Stearns Weaver)
 - Jimmy Morales (Stearns Weaver)
 - Paul Stenzler (Cues)
 - Dennis Parker (Cues)
 - Jose Villalobos (Akerman Senterfitt)

- cc:
- Clerk of the Board
 - Hugo Benitez (CAO)
 - Oren Rosenthal (CAO)
 - Henry Gillman (CAO)
 - Miriam Singer (DPM)
 - Amos Roundtree (DPM)
 - Alicia Lafarga (DPM)
 - Mayra Rose (DPM)
 - Km! Ra (DPM)
 - Greg Hicks (WASD)
 - Bill Richmond (WASD)
 - Larry Decker (WASD)
 - Juan Bedoya (WASD)
 - Bid File

CLERK OF THE BOARD
2010 AUG 27 PM 4:22
CLERK, CIRCUIT & COUNTY COURTS
DADE COUNTY, FLA.
#1

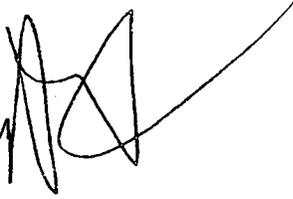
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Date: August 23, 2010

To: George M. Burgess
County Manager

From: Amos C. Roundtree, CPSM
for
Miriam Singer, CPPO
Director
Department of Procurement Management

Subject: Rescind the Award Recommendation of Contract No. 9252-WS: Sewer Inspection and Grout Repair Vehicles



RECOMMENDATION

It is recommended that the County Manager approve rescission of the award recommendation for the referenced contract to provide sewer inspection and grout repair vehicles for Miami-Dade Water and Sewer Department. The rescission is being recommended as a result of the County Attorney's Office revised and superseding legal opinion, stating that Aries' bid is responsive and that the administration should proceed to evaluate the responsibility of Aries' bid.

CONTRACT NUMBER: 9252-WS

CONTRACT TITLE: Sewer Inspection and Grout Repair Vehicles

DESCRIPTION: To provide sewer inspection and grout repair vehicles for Miami-Dade Water and Sewer.

TERM: One-time purchase

APPROVAL TO ADVERTISE: January 15, 2010

CONTRACT AMOUNT: \$1,683,000

USING/MANAGING AGENCY AND FUNDING SOURCE:

Department	Allocation	Funding Source	Contract Manager
Miami-Dade Water and Sewer Department	\$1,683,000	Proprietary Funds	Gregory Hicks

DPM AGENT/OFFICER: Pablo Martinez, Department of Procurement Management

PREVIOUS CONTRACT AMOUNT: There is no previous contract.

METHOD OF AWARD: To the responsive and responsible bidder offering the lowest price per item.

VENDOR RECOMMENDED FOR AWARD:

Vendor	Address	Principal
ELXSI Inc. d/b/a Cues (Non-local vendor)	3600 Rio Vista Avenue Suite A Orlando, Florida 32837	Alexander M. Milley

COMPLIANCE DATA:

There are no compliance issues with the recommended firm.

PERFORMANCE DATA:

There are no performance issues with the recommended firm.

VENDORS NOT RECOMMENDED FOR AWARD:

Aries Industries, Inc. was deemed non-responsive by the County Attorney's Office.

CONTRACT MEASURES:

The Small Business Enterprise Bid Preference was applied in accordance with the Ordinance.

LIVING WAGE:

The Living Wage Ordinance is not applicable.

USER ACCESS PROGRAM:

The User Access Program Provision will apply. The 2% program discount will be collected on all purchases.

LOCAL PREFERENCE:

Local Preference was applied in accordance with the Ordinance. The preference did not affect the award of the contract.

ESTIMATED CONTRACT COMMENCEMENT DATE:

Upon approval by the Board of County Commissioners and the expiration of the Mayoral veto period.

BACKGROUND

This contract is for the purchase of nine sewer inspection and grout repair vehicles for the Miami-Dade Water and Sewer Department. Sewer inspection and grout repair vehicles are used to inspect the condition of sewer mains and service laterals, and to seal mainline joints and service connections. Sewer inspections and repairs are performed throughout Miami-Dade County to maintain underground utility infrastructure, and to prevent groundwater contamination.

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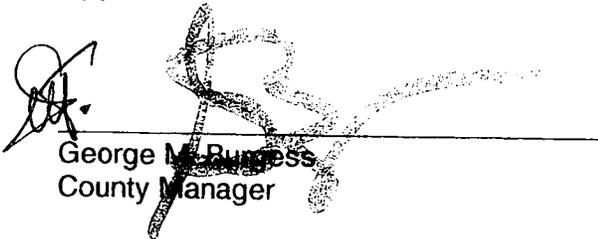
George M. Burgess

Rescind the Award Recommendation of Contract No. 9252-WS: Sewer Inspection and Grout Repair Vehicles

Based on the County Attorney's Office (CAO) finding that the bid from Aries Industries, the low bidder, was nonresponsive, the recommendation was made to award to ELXSI Inc. d/b/a Cues, the second low bidder. Following the approval and posting of the award recommendation with the Clerk of the Board, Aries Industries Inc. filed a timely bid protest. On August 4, 2010, the CAO issued a revised and superseding legal opinion, stating that Aries' bid is responsive and that the administration should proceed to evaluate the responsibility of Aries' bid.

Therefore, it is recommended that the County Manager's rescission of the award recommendation be approved to allow staff to further evaluate Aries' bid and determine whether Aries is a responsible bidder.

Approved


George M. Burgess
County Manager

8/27/10
Date

Not Approved

George M. Burgess
County Manager

Date



September 22, 2010

- ADA Coordination
- Agenda Coordination
- Animal Services
- Art in Public Places
- Audit and Management Services
- Aviation
- Building
- Building Code Compliance
- Business Development
- Capital Improvements
- Citizens' Independent Transportation Trust
- Commission on Ethics and Public Trust
- Communications
- Community Action Agency
- Community & Economic Development
- Community Relations
- Consumer Services
- Corrections & Rehabilitation
- Cultural Affairs
- Elections
- Emergency Management
- Employee Relations
- Empowerment Trust
- Enterprise Technology Services
- Environmental Resources Management
- Fair Employment Practices
- Finance
- Fire Rescue
- General Services Administration
- Historic Preservation
- Homeless Trust
- Housing Agency
- Housing Finance Authority
- Human Services
- Independent Review Panel
- International Trade Consortium
- Juvenile Services
- Medical Examiner
- Metro-Miami Action Plan
- Metropolitan Planning Organization
- Park and Recreation
- Planning and Zoning
- Police
- Procurement Management**
- Property Appraisal
- Public Library System
- Public Works
- Safe Neighborhood Parks
- Seaport
- Solid Waste Management
- Strategic Business Management
- Team Metro
- Transit
- Task Force on Urban Economic Revitalization
- Vizcaya Museum And Gardens
- Water & Sewer

All Responding Vendors (See Distribution List)

SUBJECT: Bid No. 9252-WS – Sewer Inspection and Grout Repair Vehicles

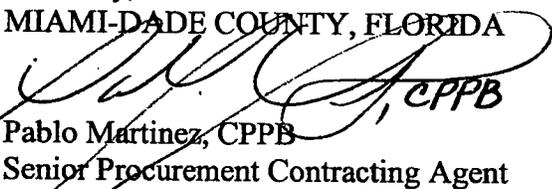
Dear Vendors:

Evaluation of bids tendered in response to the above cited solicitation has been completed. The County Manager or designee has recommended award as shown in the attached document.

This notice is provided in accordance with Section 1.12 of the solicitation and Section 2-8.4 of the Code of Miami-Dade County. Our provision of this notice also serves to confirm the lifting of the Cone of Silence from this procurement action as dictated by Section 2-11.1(t) of the County Code.

We appreciate the participation of all vendors who responded to the subject action. If you have any questions, please contact me at 305-375-2102, or via email mpablo@miamidade.gov.

Sincerely,
MIAMI-DADE COUNTY, FLORIDA


Pablo Martinez, CPPB
Senior Procurement Contracting Agent

Distribution List: Aries Industries, Inc.
ELXIS Inc. d/b/a Cues
Advantage Golf Cars, Inc.
Whiteside Chevrolet, GMC, Buick, Pontiac, Cadillac, Inc.

Attachments: County Manager Award Recommendation
County Attorney's Memorandum

cc: Clerk of the Board
Oren Rosenthal, Assistant County Attorney
Henry Gillman, Assistant County Attorney
Bid File

Delivering Excellence Every Day