

Memorandum



Date: October 22, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
County Mayor

Agenda Item No. 8(N)(1)

Subject: Request to Reject Bids for the Metromover Fiber Optic and CCTV Replacement - MCC 7360 Plan - CICC 7360-0/08 - RPQ NO: 230195-R3

Recommendation

This Request to Reject Bids for the Metromover Fiber Optic and CCTV Replacement - CICC 7360-0/08 Contract - RPQ NO: 230195-R3 has been prepared by Miami-Dade Transit (MDT) and is recommended for approval by the Board of County Commissioners (Board).

Scope

PROJECT NAME: Metromover Fiber Optic and CCTV Replacement

PROJECT NO: IRP007

CONTRACT NO: MCC 7360 Plan - CICC 7360-0/08 - RPQ NO: 230195-R3

PROJECT DESCRIPTION: The scope of work consists of installation, labor, permitting of required hardware, testing configuration, installation of network fiber optics cable, replacing existing connectors, the enclosure of cameras with mounting brackets at various Metromover stations, and integrating the entire system.

PROJECT SITES:	<u>SITE #</u>	<u>LOCATION 1</u>	<u>DIST</u>
	75907	111 N.W. 1 st Court, Miami, FL 33136	5

PRIMARY COMMISSION DISTRICT: District 5

APPROVAL PATH: Board of County Commissioners

USING DEPARTMENT: Transit

MANAGING DEPARTMENT: Transit

Fiscal Impact / Funding Source

FUNDING SOURCE:	<u>SOURCE</u>	<u>PROJECT NUM</u>	<u>SITE #</u>	<u>AMOUNT</u>
	FTA Section 5307/5309 Formula Grant	677250 677520	75907	\$3,850,000.00

PTP FUNDING: No

GOB FUNDING: No

ARRA FUNDING: Yes

CAPITAL BUDGET PROJECT:	CAPITAL BUDGET PROJECT # - DESCRIPTION	<u>AWARD ESTIMATE</u>
	676250- MOVER FIBER REPLACEMENT Book Page:111 Funding Year: Prior year's through 2013	\$3,151,976.00
	677520- MOVER VIDEO PROJECT Book Page:112 Funding Year: Prior year's through 2013.	<u>\$ 698,024.00</u>
	CAPITAL BUDGET PROJECTS TOTAL	\$3,850,000.00

SUSTAINABLE BUILDINGS ORDINANCE: (I.O NO. 8-8)
 Did the Notice to Professional Consultants contain Specific Language requiring compliance with the Sustainable Buildings Program?
 Not Applicable

TOTAL CONTRACT PERIOD: 365 Days

CONTINGENCY PERIOD: Days

IG FEE INCLUDED IN BASE CONTRACT: No

ART IN PUBLIC PLACES: No

BASE ESTIMATE: \$3,500,000.00

CONTINGENCY ALLOWANCE (SECTION 2-8.1 MIAMI DADE COUNTY CODE):	PERCENT	AMOUNT
	10%	\$ 350,000.00

TOTAL DEDICATED ALLOWANCE: \$0.00

TOTAL AMOUNT: \$3,850,000.00

EXPLANATION:

This project was advertised under the Miami-Dade County, Request for Price Quotation, MCC 7360, RPQ No. 230195-R3 on July 9, 2013. Six bids were received. Based on MDT's bid analysis and due diligence efforts, MDT issued an award recommendation to Waveguide Communications, Inc., the lowest bidder, on August 13, 2013. The awardee's insurance and performance and payment bond were approved by Miami-Dade County's Risk Management Division on August 23, 2013.

A bid protest was filed by Tri-City Electric Co., Inc., the second lowest bidder, on August 15, 2013. The bid protest hearing took place on August 27, 2013. Tri-City Electric Co., Inc. alleged that Waveguide Communications, Inc. was not eligible for this contract award for failure to possess the requisite professional license.

Miami-Dade Transit asserted that Waveguide Communications, Inc., as a Certified Alarm System Contractor 1 could pull the master permit and perform low voltage electrical work, which constitutes the vast majority of the work to be performed for this scope of services.

On September 4, 2013, the Hearing Examiner, David Tobin found Waveguide Communications, Inc.'s bid to be "non-responsive by its inability to qualify as a bonafide bidder."

In order to clarify any potential ambiguities and maximize competition to ensure the best possible prices for this scope of services, it is recommended that all bids be rejected and that this project be re-advertised expeditiously to make clear that any contractor capable of pulling the master permit be eligible for contract award.

DATE ADVERTISED: July 9, 2013
PRE-BID MEETING DATE: July 19, 2013 and July 30, 2013
BID OPENING DATE: August 8, 2013
PLANNED BID AWARD: August 13, 2013
PLANNED NOTICE TO PROCEED: August 26, 2013
MINIMUM QUALIFICATIONS EXCEED LEGAL REQUIREMENTS: No
REVIEW COMMITTEE: **MEETING DATE:** **SIGNOFF DATE:**
APPLICABLE WAGES: Building Construction
 (RESOLUTION No. R-54-10)

REVIEW COMMITTEE ASSIGNED CONTRACT MEASURES:	ESTIMATED <u>TYPE</u> <u>GOAL</u> <u>VALUE</u>	<u>COMMENT</u>
	DBE 15% \$525,000.00	

REVIEW COMMITTEE ASSIGNED CONTRACT MEASURES:	ESTIMATED		<u>COMMENT</u>
	<u>TYPE</u>	<u>GOAL</u>	<u>VALUE</u>
	DBE	15%	\$525,000.00
MANDATORY CLEARING HOUSE:	N/A		
CONTRACT MANAGER NAME / PHONE / EMAIL:	Jesus Valderrama	(786) 469-5291	jvalder@miamidade.gov
PROJECT MANAGER NAME/ PHONE / EMAIL:	Daniel Mondesir	(786) 469-5267	MDS@miamidade.gov

BACKGROUND:

This project consists of installing fiber optic cable throughout Miami-Dade Transit's Metro Mover System which will provide infrastructure to support the following:

- A Data Transmission System (DTS) that shall be used to provide control commands to and receive indications and alarms from each of the Metro Mover stations and locations that receive or send such Central Control.
- Extension of the County Enterprise Network to each of the Metro Mover Station Train Control rooms, Mover Maintenance Building and Central Control.

As a result of a Bid Protest and the Hearing Examiner's recommendation, it is requested that all bids be rejected and that this project be advertised expeditiously in order to clarify any potential ambiguities and maximize competition to ensure the best possible prices for this scope of services.

APPROVED AS TO
LEGAL SUFFICIENCY:

Bruce Zibhaber 9-24-13
COUNTY ATTORNEY DATE

MIAMI-DADE TRANSIT
DEPARTMENT
CONCURRENCE:

Michael Glas 9-23-13
DIRECTOR, MDT DATE

APPROVED
PURSUANT TO
SECTION 2-8.1 OF THE
MIAMI-DADE COUNTY
CODE:

DTA 9/25/13
DEPUTY MAYOR DATE

CLERK:

DATE



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: October 22, 2013

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(N)(1)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(N)(1)
10-22-13

RESOLUTION NO. _____

RESOLUTION AUTHORIZING REJECTION OF BIDS FOR THE
METROMOVER FIBER OPTIC AND CCTV REPLACEMENT – MCC
7360 PLAN – CICC 7360-0/08 – RPQ NO: 230195-R-3

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the Rejection of Bids for the Metromover Fiber Optic and CCTV Replacement - MCC 7360 Plan - CICC 7360-0/08 - RPQ NO: 230195-R3.

The foregoing resolution was offered by Commissioner
who moved its adoption. The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman
Lynda Bell, Vice Chair

Bruno A. Barreiro
Jose "Pepe" Diaz
Sally A. Heyman
Jean Monestime
Sen. Javier D. Souto
Juan C. Zapata

Esteban L. Bovo, Jr.
Audrey M. Edmonson
Barbara J. Jordan
Dennis C. Moss
Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 22nd day of October, 2013. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

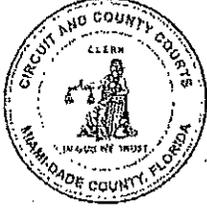
By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Bruce Libhaber

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



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

September 4, 2013

Kerry M. Lewis, Esq.
Elder & Lewis
1500 San Remo Avenue, Suite 214
Coral Gables, Florida 33146

Re: Bid Protest – CICC 7360-0/08 – RPQ No. 230195-R 3
Metro Mover Fiber Optic and CCTV Replacement

Dear Attorney Lewis:

Pursuant to Section 2-8.4 of the Code and Implementing Order 3-21, forwarded for your information is a copy of the Findings and Recommendation filed by the Honorable Judge David Tobin, Hearing Examiner, in connection with the foregoing bid protest hearing which took place on August 27, 2013.

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

Sincerely,
HARVEY RUVIN, Clerk
Circuit and County Courts

By 
Christopher Agrippa, Division Chief
Clerk of the Board Division

CA/fcd
Attachment

Central Depository • Civil Division • Clerk of the Board • Code Enforcement • Comptroller/Auditor • County Recorder Criminal Division • District Courts Division • Family Courts Division • Human Resources / Administrative Services • Juvenile Division Marriage.License • Parking Violations • Records /Archives Management • Technical Services Division • Traffic Division • V.A.B.

Kerry M. Lewis, Esq.
Elder & Lewis
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September 4, 2013

cc: Honorable Chairwoman Rebeca Sosa and
Members, Miami-Dade County Board of County Commissioners (via email)
R.A. Cuevas, County Attorney (via email)
Hugo Benitez, Assistant County Attorney (via email)
Bruce Libhaber, Assistant County Attorney (via email)
Jenelle Snyder, County Attorney's Office (via email)
Rita Gonzalez, County Attorney's Office (via email)
Elizabeth Alfonso Ruiz, County Attorney's Office (via email)
Charles Anderson, Commission Auditor (via email)
Elizabeth Owens, BCC Legislative Analyst, Commission Auditor's Office (via email)
Ysela Llori, Director, Miami-Dade Transit (via email)
Jesus Valderrama, Manager, Contract Services, Miami-Dade Transit (via email)
Lester Sola, Director, Internal Services Department (via email)
Miriam Singer, Assistant Director, Procurement Management, ISD (via email)
Ray Baker, Assistant to the Director, ISD (via email)
Walter Fogarty, Manager, Procurement Vendor Services, ISD (via email)
Amos Roundtree, Director, Purchase Division, ISD (via email)
Yvonne Andres, Miami-Dade Transit (via email)

HARVEY RUVIN, CLERK OF THE BOARD

TRI-CITY ELECTRIC CO., INC.
Petitioner

v.

MIAMI-DADE COUNTY
Respondent

BID PROTEST
PROJECT NO. IRP 007
PROJECT NAME- METRO-
MOVER FIBER OPTIC &
CCTV REPLACEMENT
AWARD TO WAVEGUIDE
COMMUNICATIONS, INC.
RPQ No. 230195-R3

RECCOMENDATION OF HEARING EXAMINER

On August 27, 2013, after proper notice to all interested parties, a hearing was held at 10:00 A.M. in conference Room "B", 27th Floor, in the Stephen P. Clark Government Center Building, 111 N.W. 1st Street, Miami, Florida.

Present were: For Petitioner - Kerry Lewis, Esq., David B. Williams, Esq., Russ Borden and Rodney Borden, Officers of Tri-City Electric, the protestor; Bruce Libhaber, Esq., County attorney and Jesus Valderamma, Manager of MDT Engineering Contract Services Section, and Hearing Examiner David L. Tobin, Senior Circuit Judge of the 11th Judicial Circuit

All witnesses were sworn and each party made opening statements and arguments and submitted exhibits to which there were no objections.

FINDINGS OF FACT

There were six bids submitted for this project. Waveguide was the low bidder at \$1,788,718.12. Tri-City was the second lowest bidder at \$3,667,928.00. The county originally estimated this project at approximately \$3,200,00.00.

Waveguide was recommended on August 9, 2013. This protest followed.

With regard to the project RPQ's requirements for licensing MDC RPQ comment 17 states: "...A. All contractors must hold a current valid Certificate of Competency for General Building/Engineering or Specialty Trades Contracting, as required by the Florida Building Code, for the types of work covered by the Contract at the time of RPQ submission and maintain same throughout the duration of the project".

At the time of the submission Waveguide did not have a current valid

CLERK CIRCUIT & COUNTY OF
MIAMI-DADE COUNTY, FLA.
#1

2013 SEP -4 PM 2:10

CLERK OF THE BOARD

certificate of Competency for General Building/Engineering. Nor did Waveguide have a valid Electrical license. (They had a low-voltage license suitable for alarm systems) The Project required both high and low voltage work.

Waveguides sole license at the time of the RPQ submission was a Certified Alarm System Contractor license.

CONCLUSIONS OF LAW

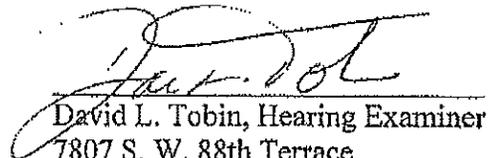
It was clear to the Hearing Examiner that this is a one-issue case. That is, was Waveguide qualified to be awarded the subject contract based upon its low voltage alarm license?

Although the Dade County employees were motivated to accomplish this job at the most cost efficient price to act in the best interest of their employer - Dade County taxpayers- and they mightily tried to put the square peg in the round hole, it simply flies in the face of the fact that Waveguide's bid is Non-Responsive by its inability to qualify as a bona fide bidder.

There is no finding that the award to Waveguide was arbitrary, capricious, or was the product of dishonesty, fraud, oppression or misconduct. It was, however, clearly illegal.

It is recommended that the next lowest bidder, Tri-City Electric be awarded this bid, forthwith.

Respectfully submitted this 14 Day of September, 2013.


David L. Tobin, Hearing Examiner
7807 S. W. 88th Terrace
Miami, Fl. 33156
Tel. (305) 274-6403
Fax (305) 274-3161

Copies furnished to:
Clerk of the Board (Original)
Kerry Lewis, Esq. Via Fax Only: (305) 667-4664
Bruce Libhaber, Esq. Via Fax Only: (305) 375-5634