

Memorandum



Date: May 5, 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Agenda Item No. 8(F)(9)

Subject: Recommendation for Approval to Award Microsoft Software Licensing Solution Partner

Recommendation

It is recommended that the Board of County Commissioners (Board) approve a competitive contract award, *Contract No. FB-01525, Microsoft Software Licensing Solution Partner*, for the Miami-Dade Information Technology Department. The County's current contract, FB-00472, was competitively solicited and awarded by the Board on May 2, 2017 through Resolution No. R-499-17. Under this replacement contract, the County shall purchase Microsoft application and server licenses, software maintenance, and subscription services from the recommended awardee, Insight Public Sector, Inc. The recommended awardee is a Microsoft Licensing Solutions Provider who is authorized to deliver the solicited Microsoft licenses and services.

Under the current contract, the County uses Microsoft application software to support countywide operations as well as server software to provide the backend for numerous operational systems. Additionally, Microsoft provides cloud-based file storage that enables additional storage capacity beyond what is provided by the Information Technology Department and provides access to Azure Government cloud services to host various applications.

On February 7, 2020, a solicitation was advertised under full and open competition. On February 28, 2020, five bids were received and evaluated. Subsequently, two bids were deemed non-responsive by the County Attorney's Office. As a result, the bid was awarded to Insight Public Sector, Inc, the authorized Microsoft Licensing Solutions Provider with the lowest bid.

Scope

The scope of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the three-year term is \$34,016,000. Microsoft requires the County to enter into a 36-month term with a License Service Provider in order to acquire products and services. The allocation requested for this award is based on historical use, license true up and growth in the County's infrastructure. The current contract, Contract No. FB-00472, is valued at \$28,600,000 for a three-year term and expires on May 31, 2020.

Department	Allocation	Funding Source	Contract Manager
Information Technology	\$34,016,000	Internal Service Funds	Julian Manduley
Total:	\$34,016,000		

Track Record/Monitor

Sade Chaney, of the Internal Services Department is the Procurement Contracting Manager.

Delegated Authority

If this item is approved, the County Mayor or County Mayor's designee will have the authority to exercise all provisions of the contract, including any cancellation or extension provisions, pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38.

Vendor Recommended for Award

A Request for Proposals was issued under full and open competition. Five bids were received in response to the solicitation. The solicitation requested pricing for two groups: Group A, Microsoft Licensing Solution Partner – State and Local Government and Group B – Microsoft Licensing Solution Partner – Academic and Education.

Pursuant to Resolution No. R-477-18, the vendor recommended for award is non-local. None of the vendors that bid are local vendors.

Vendor	Principal Address	Local Address*	Number of Employee Residents	Principal
			1) Miami-Dade 2) Percentage*	
Insight Public Sector, Inc.	6820 South Harl Avenue Tempe, AZ	None	0	Kenneth T. Lamneck
			0%	

*Provided pursuant to Resolution No. R-1011-15. Percentage of employee residents is the percentage of vendor's employees who reside in Miami-Dade County as compared to the vendor's total workforce.

Vendors Not Recommended for Award

Vendor	Local Address	Reason for Not Recommending
SHI International Corp.	None	Deemed non-responsive by the County Attorney's Office for conditioning its bid submittal. Opinion attached.
Zones, LLC	None	
CDW Government, LLC	None	Higher than lowest bidder.
Crayon Software Experts, LLC	None	

Due Diligence

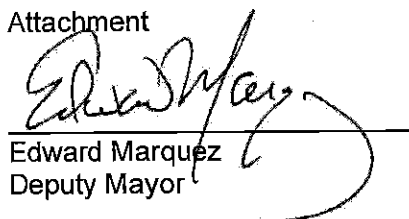
Pursuant to Resolution No. R-187-12, due diligence was conducted in accordance with the Internal Services Department's Procurement Guidelines to determine vendor responsibility, including verifying corporate status and that there are no performance and compliance issues. The lists that were referenced included convicted vendors, debarred vendors, delinquent contractors, suspended vendors, and federal excluded parties. There were no adverse findings relating to vendor responsibility.

Pursuant to Resolution No. R-140-15, prior to re-procurement, a full review of the scope of services was conducted to ensure the replacement contract reflects the County's current needs. The review included conducting market research, posting a draft solicitation for industry comment, and obtaining an accurate number of licenses required from each user department.

Applicable Ordinances and Contract Measures

- The two percent User Access Program provision applies.
- The Small Business Enterprise Bid Preference and Local Preference were applicable but did not affect the outcome of the award recommendation.
- The Living Wage does not apply.

Attachment


 Edward Marquez
 Deputy Mayor

Memorandum



Date: March 17, 2020

To: Caroline Burgos
Procurement Contracting Officer
Internal Services Department

From: Eduardo W. Gonzalez
Assistant County Attorney

Subject: Request for Responsiveness Determination on FB-01525, Microsoft Software Licensing Solution Partner

You have asked this office if bids submitted by three vendors, Insight Public Sector, Inc. ("Insight"), Zones LLC ("Zones") and SHI International ("SHI") are responsive. We rely on the information provided in your March 3 and March 5, 2020 memoranda, the terms of the bid solicitation itself and the bids submitted by the vendors identified above. For the reasons set forth below, the bids by Zones and SHI are nonresponsive and the bid submitted by Insight is responsive.

Background

The purpose of the solicitation is to establish contracts with authorized Microsoft License Solution Partners for the purchase of Microsoft software licenses. Award of the contract(s) are to the lowest responsive and responsible bidders by group.

Insight included the following in its bid: "The pricing provided by Insight does not take into consideration the 0.25% Inspector General Audit fee or the 2.0% User Access Program fee. Should the County impose those fees on the resulting contract, our pricing will be adjusted accordingly."

Zones included the following in its bid on a page titled "**GOVERNING TERMS AND CONDITIONS**": "Due to ongoing international trade disputes, notwithstanding anything to the contrary herein, because Zones' acquisition costs may increase upon limited notice to Zones and its customers, Zones reserves the right to raise the product price quoted to any customer to account for any such cost increase(s)."

SHI submitted two bid response forms with different pricing. Additionally, within its bid, SHI submitted a document under its letterhead addressed to Miami-Dade County titled SHI Quote 18474717. The Quote includes pricing for products included in the bid items. The document was subtitled "Pricing Proposal" and included a note stating: "Valid Until: 3/19/2020". The document also included language providing: "The pricing offered on this quote proposed is valid through the expiration date listed above."

Discussion

In general, a bid may be rejected or disregarded if there is a material variance between the proposal and the advertisement. A minor variance, however, will not invalidate the proposal. See Robinson Elec. Co. v. Dade County, 417 So. 2d 1032, 1034 (Fla. 3d DCA 1982). The determination of whether a variance or irregularity is minor is fact specific and may differ from bid to bid. Florida courts have used a two-part test to determine if a specific noncompliance in a bid would constitute 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 proposer in a position of advantage over other proposers. See Glatstien v. City of Miami, 399 So. 2d 1005 (Fla. 3d DCA 1981).

The bid specifications require firm and fixed pricing for the contract term that lasts approximately 3 years. Moreover, a bid cannot be withdrawn until 180 days from the date of bid opening.¹ As the method of award here is to the lowest responsive and responsible, pricing is not only a material term but, indeed, the central term of the eventual contracts the County will award pursuant to the bid solicitation.

The Zones and SHI bids both contained material variances on the element of pricing. Zones specifically retained the right to raise its bid prices at any time. This is contrary to the bid specifications requiring firm and fixed pricing through the duration of the contract term. SHI included a note in its bid that the pricing it submitted was only good through March 19, 2020. SHI's did not submit pricing that would be firm and fixed through the duration of the contract. Additionally, per its note, SHI could withdraw its bid prices less than three weeks after the bid opening, long before 180-day period (6 months) called for in the bid specifications. Zones' and SHI's material variances render their bids nonresponsive.

Insight, however, is responsive. Insight submitted firm and fixed pricing with a note that its prices shall be automatically adjusted if the User Access Program (UAP) fee and the Inspector General (IG) Audit fee are applicable. These fees are legally required and applicable. ISD staff has informed me that Insight's pricing can be automatically adjusted to reflect the inclusion of the UAP fee and IG Audit fee. Such an adjustment can be made without going back to Insight to request additional information or clarifications on pricing. Insight did not repudiate the UAP fee or IG Audit fee, did not condition its pricing or reserve a right to modify or withdraw pricing in violation of the bid specifications. Insight's bid is responsive.

/s/ Eduardo W. Gonzalez

¹ The County opened bids on this solicitation on February 28, 2020.



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: May 5, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(F)(9)

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
- Statement of social equity 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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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(F)(9)
5-5-20

RESOLUTION NO. _____

RESOLUTION APPROVING AWARD OF CONTRACT NO. FB-01525 TO INSIGHT PUBLIC SECTOR, INC. FOR THE PURCHASE OF MICROSOFT SOFTWARE LICENSING SOLUTION PARTNER FOR THE MIAMI-DADE INFORMATION TECHNOLOGY DEPARTMENT WITH AN AMOUNT NOT TO EXCEED \$34,016,000.00, FOR A THREE-YEAR TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO GIVE NOTICE OF THIS AWARD, ISSUE THE APPROPRIATE PURCHASE ORDERS TO GIVE EFFECT TO SAME AND EXERCISE ALL PROVISIONS OF THE CONTRACT PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38

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 award of Contract No. FB-01525 to Insight Public Sector Inc. for the purchase of Microsoft Software Licensing Solution Partner for the Miami-Dade Information Technology Department with an amount not to exceed \$34,016,000.00, for a three-year term; and authorizes the County Mayor or County Mayor's designee to give notice of this award, issue the appropriate purchase orders to give effect to same and exercise all provisions of the contract pursuant to Section 2-8.1 of the Code of Miami-Dade County, Florida and Implementing Order 3-38. A copy of the contract document is on file with and available upon request from the Internal Services Department, Strategic Procurement Division.

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:

Audrey M. Edmonson, Chairwoman

Rebeca Sosa, Vice Chairwoman

Esteban L. Bovo, Jr.

Jose "Pepe" Diaz

Eileen Higgins

Joe A. Martinez

Dennis C. Moss

Xavier L. Suarez

Daniella Levine Cava

Sally A. Heyman

Barbara J. Jordan

Jean Monestime

Sen. Javier D. Souto

The Chairperson thereupon declared this resolution duly passed and adopted this 5th day of May, 2020. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the 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.



Eduardo W. Gonzalez