

MEMORANDUM

Agenda Item No. 8(F)(2)

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

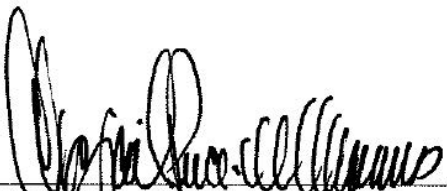
DATE: July 8, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution authorizing the Mayor to solicit new proposals for the purchase of goods and services related to the Court Case Management System, limiting competition to those who offered proposals in connection with RFP-01208, establishing methodology for solicitation, and waiving competitive bidding pursuant to section 5.03(D) of the Home Rule Charter, section 2-8.1 of the Code of Miami-Dade County, and Implementing Order 3-38 by a two-thirds vote of the Board members present


The accompanying resolution was prepared by the Internal Services Department and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.

APW/lmp


Abigail Price-Williams
County Attorney

Date: July 8, 2020

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

From: Carlos A. Gimenez
Mayor 

Subject: Recommendation to Waive Competitive Bids to allow limited competition for Court Case Management System

Recommendation

It is recommended that the Board of County Commissioners (Board) waive formal bid procedures pursuant to Section 5.03(D) of the Home Rule Charter and Section 2-8.1 of the County Code, and Implementing Order 3-38, by a two-thirds vote of the Board members present, to allow for limited competition among all proposers for *Request for Proposals (RFP) No. RFP-01208, Court Case Management System*, for the Information Technology Department (ITD).

On June 2, 2020, the Board directed the Mayor to evaluate the possibility of recommending a competitive bid waiver to limit the competition for the project to those proposers who issued a proposal for RFP-01208. The administration has reviewed the possibility and determined it to be in the best interest the County to limit competition to the six proposers which responded to RFP-01208 in the manner described below. It has been determined, due to the technical complexities and significant operational impacts of this project, that this waiver will assist in expediting a contract award.

The Board further directed that the process provides for a more flexible evaluation of price and allow proposers to offer new proposal that would cure identified problems with the proposals issued in response to RFP-01208. The administration believes that the most expedient, clearest and best vehicle to implement the Board's directive is to modify the replacement solicitation issued by the County on May 22, 2020 (the "Replacement Solicitation"), subject to this Board's termination of the prior process. The Replacement Solicitation invites more flexible price proposals and evaluation, updates County requirements and capabilities through the present date, and addresses the issues identified in connection with the prior responses. In addition, the Replacement Solicitation will be modified in the following material respects:

- (a) Competition will be limited to the six proposers issuing a proposal in response to RFP-0108. Because certain original responses were found to be not responsive, and the solicitation has been updated and modified as described above each of the proposer will issue a new proposal without reference to the prior one to remain under consideration. The original proposals will be deemed rejected and of no further force or effect.
- (b) Any recommendation for award as being in the best interest of the County will result from the bid waiver that is being requested in the proposed resolution. As such, the recommendation will not be subject to a bid protest under Section 2-8.4 of the Code.

The modernization of existing outdated technology and reduction of paper-based processes remain a critical need. The administration believes that the approach outlined above is in the best interest of the County by avoiding issues relating to vendor responsiveness, providing the County the opportunity to update its needs and capabilities, providing proposers with the opportunity to update their technical proposals, and allowing the award of this critical system to be expedited.

Background

RFP-01208 was issued on March 11, 2019 to obtain proposals from qualified firms to provide a technically sound, scalable, and state-of-the-art comprehensive Court Case Management System (CCMS) to replace manual paper-based processes and modernize the current criminal justice case management system which supports all areas of adult and juvenile law and court administrative agencies. The CCMS will provide an integrated, modern criminal justice solution for criminal court cases for the Eleventh Judicial Circuit Court of Florida that will serve the needs of all criminal justice agencies and County citizens. The CCMS provider would be responsible for delivery of a turnkey CCMS solution inclusive of all software licensing, implementation, integration, configuration, data conversion, training, escrow, maintenance, and support services.

In an effort to avoid the need for future change orders, which could have caused delays in implementing the CCMS, and to control costs, the RFP requested that all pricing be provided as a fixed fee, and explicitly excluded proposals based upon time and materials services to deliver the CCMS. No questions or feedback regarding the pricing methodology were received during the RFP's preproposal question period.

Six proposals were received on May 24, 2019. One proposal, received from Tyler Technologies, contained confidential sections and failed to comply with the County's waiver of confidentiality requirements, and was therefore deemed non-response by the County Attorney's Office (CAO) and was not included in the initial evaluation process. The Competitive Selection Committee (CSC), consisting of technical experts from ITD as well as key representatives from stakeholders, including the Administrative Office of the Courts, the Clerk of the Circuit Courts, and the State Attorney's Office, began a comprehensive and thorough evaluation process of the remaining proposals. The remaining proposals exceeded 2,000 pages in length and were highly technical in nature. The initial round of evaluation included seven public evaluation meetings.

Following the initial evaluation, the CSC determined that two of the proposers, CourtView Justice Systems dba equivant and Pioneer Technology Group, provided technical proposals capable of meeting the technical and operational needs of the CCMS and warranted additional evaluation. However, as the evaluation of the remaining proposers continued, concerns regarding how some proposers provided pricing components were identified and subsequently reviewed with the CAO. The CAO opined that the proposers had not complied with the County's requirement to provide a fixed fee, and both proposers were deemed non-responsive, leaving no viable responsive proposers.

Under the Replacement Solicitation, the proposers will have the opportunity to provide an updated technical proposal which demonstrates their capabilities to meet the County's needs as well as provide pricing in a more flexible manner, allowing the County to select a CCMS which provides the greatest value to the County.

Scope

The scope of this item is countywide in nature.

Fiscal Impact/Funding Source

There is no fiscal impact for the cancellation of the RFP.

Track Record/Monitor

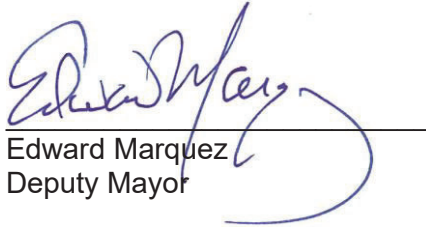
Beth Goldsmith of the Internal Services Department is the Chief Negotiator.

Vendors Not Recommended for Award

Vendor	Reason for Not Recommending
CourtView Justice Systems dba equivalent	Deemed non-responsive by the CAO.
Cross Industry Solutions Inc.	Deemed to not meet operational/technical needs by CSC.
Journal Tech	Deemed to not meet operational/technical needs by CSC.
NewVision Systems Corporation	Deemed to not meet operational/technical needs by CSC.
Pioneer Technology Group	Deemed non-responsive by the CAO.
Tyler Technologies	Deemed non-responsive by the CAO.

Applicable Ordinances and Contract Measures

- The two percent User Access Program provision will apply.
- The Small Business Enterprise Selection Factor will not apply.
- The Living Wage does not apply.



Edward Marquez
Deputy Mayor



**OFFICE OF THE
MIAMI-DADE COUNTY ATTORNEY**

Date: June 24, 2019

To: Tiondra Wright
Procurement Contracting Officer

From: David Stephen Hope dsh
Assistant County Attorney

Subject: RFP-01208 Responsiveness Determination - Court Case Management System

This memorandum responds to your responsiveness request dated May 28, 2019, where you asked whether the bid submittal of Tyler Technologies (“Tyler”) for RFP-01208 is responsive, given its (i) failure to acknowledge the Waiver of Confidentiality and Trade Secret of Proposal, (ii) Attachment 2, page 5 of its proposal stating “This document contains proprietary trade secret information of Tyler Technologies Inc. and/or its subsidiaries and is not to be copied, reproduced, lent or disposed of, nor used for any purpose other than for the purposes specified herein without the express prior written permission of Tyler Technologies[.]”, and (iii) and the footer of various sections of its proposal containing “Confidential” and “This document is solely for Client County’s/Miami-Dade internal use. This document shall not be used, reproduced, copied, disclosed, transmitted, in whole or in part, without the express written consent of Tyler Technologies and Client County/Miami-Dade.”

As expressed in a litany of previous of County Attorney’s Office opinions on this matter, the failure of a proposer to either affirmatively acknowledge said waiver and not sign said Acknowledgement of Waiver, or take exception that certain sections of its proposal are “confidential” renders such submission nonresponsive. Tyler Technologies’ proposal is deemed nonresponsive.

cc: Beth Goldsmith, Chief Negotiator, Internal Services Department
Hugo Benitez, Assistant County Attorney



**OFFICE OF THE
MIAMI-DADE COUNTY ATTORNEY**

Date: February 14, 2020

To: Beth Goldsmith
Chief Negotiator
Internal Services Department

From: David Stephen Hope dsh
Assistant County Attorney

Subject: RFP-01208 Responsiveness Determination/Legal Determination - Court Case Management System

This memorandum responds to your responsiveness request dated February 7, 2020,¹ where you asked whether the proposal from Courtview Justice Solutions Inc. d/b/a equivalent (“Courtview”) is responsive to RFP-01208, Court Case Management System (the “RFP”). For the reason set forth and explained below, Courtview is deemed non-responsive.

DISCUSSION

In issuing this opinion, we relied upon the facts and information provided in your memorandum (attached hereto w/o attachments). The RFP in FORM 1 – PRICE PROPOSAL SCHEDULE, Section A. (Instructions) states:

The Proposer’s price shall be submitted on this Form 1 “Price Proposal Schedule”. Proposer is requested to fill in the applicable blanks on this form. All pricing must include **all cost elements** including but not limited (i) software licenses, (ii) implementation, (iii) configuration, (iv) integration, (v) testing, (vi) training, (vii) maintenance, (viii) support, and (ix) professional support services required to meet the specifications outlined in Section 2.0 of this

¹ The Request for Responsiveness Determination mistakenly refers to RFP-01353 instead of RFP-01208.

solicitation document. Pricing for services must be stated as a fixed and firm cost for turnkey implementation of the Solution, inclusive of all costs, and travel. Pricing shall not be based on a time and materials engagement. (emphasis in original).

As part of its RFP response, Courtview submitted a document titled Supplement 11 – Pricing Notes and Assumptions. Section 11.2 (Pricing Assumptions) of this document delineates thirty-two (32) different conditions (collectively, the “Pricing Assumptions”). For this responsiveness opinion, we need only to look at Pricing Assumption 10 which states:

Implementation Services quoted are at a time and materials effort. Actual effort, costs and expenses may be less than or greater than those estimated. Customer shall have no obligation to pay equivalent more than the estimated price. equivalent shall have no obligation to provide labor or incur costs or expenses having a combined value more than the estimated price, even if the services have not been completed or the deliverable delivered, or the results expected by the customer have not been achieved. The parties may by mutual, written agreement, increase the estimated price.

Courtview has conditioned its price proposal in contravention of Form 1 of the RFP and its specific instructions. As the RFP expressly states that pricing shall not be based on a time and materials basis, Courtview’s proposal is non-responsive.²

cc: Hugo Benitez, Assistant County Attorney

² Additional analysis or bases for Courtview’s proposal being non-responsive (i.e., not a fixed and firm cost proposal, or impermissibly transferring the risk associated with Implementation Services costs or expenses to Miami-Dade County) is superfluous.

Memorandum



Date: February 7, 2020

To: David Stephen Hope
Assistant County Attorney
County Attorney's Office

From: Beth Goldsmith
Chief Negotiator
Internal Services Department

Subject: Request for Responsiveness Determination/Legal Opinion
RFP-01353: Court Case Management System

On May 24, 2019, proposals were received for the subject Solicitation. In review of the proposals, it was noted that the proposal from CourtView Justice Solutions Inc. dba equivalent contained a document labeled as Supplement 11, Pricing Notes and Assumptions. Item 10 of Section 11.2 of this document states the following, "Implementation Services quoted are at a time and materials effort. Actual effort, costs and expenses may be less than or greater than those estimated. Customer shall have no obligation to pay equivalent more than the estimated price, equivalent shall have no obligation to provide labor or incur costs or expenses having a combined value more than the estimated price, even if the services have not been completed or the deliverable delivered, or the results expected by the customer have not been achieved."

Form 1, Section A of the Solicitation states the following, "Pricing shall not be based on a time and materials engagement." (emphasis in original document). Please review this item and advise whether the proposal is responsive.

If you have any questions or are in need of further documentation to make your determination, please contact me at (305) 375-5683 or beth.goldsmith@miamidade.gov. Thank you for your attention to this matter.

Attachments

- Attachment 1 – Supplement 11 of CourtView Justice Solutions Inc. dba equivalent Proposal
- Attachment 2 – Form 1 of CourtView Justice Solutions Inc. dba equivalent Proposal
- Attachment 3 – Form 1 of RFP-01208



**OFFICE OF THE
MIAMI-DADE COUNTY ATTORNEY**

Date: April 8, 2020

To: Beth Goldsmith
Chief Negotiator
Internal Services Department

From: David Stephen Hope [dsh](#)
Assistant County Attorney

Subject: RFP-01208 Responsiveness Determination/Legal Determination – Pioneer
Technology Group

This memorandum responds to your responsiveness request dated April 6, 2020, where you asked whether the proposal from Pioneer Technology Groupon (“Pioneer”) is responsive to RFP-01208, Court Case Management System (the “RFP”). For the reason set forth and explained below, Pioneer is deemed non-responsive.

DISCUSSION

In issuing this opinion, we relied upon the facts and information provided in your memorandum (attached hereto w/o attachments). The RFP in FORM 1 – PRICE PROPOSAL SCHEDULE, Section A. (Instructions) states:

The Proposer’s price shall be submitted on this Form 1 “Price Proposal Schedule”. Proposer is requested to fill in the applicable blanks on this form. All pricing must include **all cost elements** including but not limited to (i) software licenses, (ii) implementation, (iii) configuration, (iv) integration, (v) testing, (vi) training, (vii) maintenance, (viii) support, and (ix) professional support services required to meet the specifications outlined in Section 2.0 of this solicitation document. Pricing for services must be stated as a fixed and firm cost for turnkey implementation of the

Solution, inclusive of all costs, and travel. Pricing shall not be based on a time and materials engagement. (emphasis in original).

As part of its RFP response, Pioneer submitted a Form 1 – Price Proposal Schedule which contained the following response in Table B2 – Price Breakdown for Professional Services: “Custom Development (2,000 Hours)”, with an associated price of \$350,000. Pioneer has capped its provision of custom development professional services to 2,000 hours, which conditions the \$350,000 price for said line item in contravention of Form 1 of the RFP and its specific instructions. If Miami-Dade County (the “County”), requires custom development which exceeds Pioneer’s total hour cap, it would have to negotiate with Pioneer for such work in violation of the RFP which clearly states, “All pricing must include **all cost elements** including but not limited to ... (ii) implementation, (iii) configuration, (iv) integration, ... and (ix) professional support services....” (emphasis in original). Such a cap on hours provided for custom development is tantamount to a time and materials engagement.

As the RFP expressly states that pricing shall not be based on a time and materials basis, Pioneer’s proposal is non-responsive.

cc: Hugo Benitez, Assistant County Attorney

Memorandum



Date: April 6, 2020

To: David Stephen Hope
Assistant County Attorney
County Attorney's Office

From: Beth Goldsmith
Chief Negotiator
Internal Services Department, Strategic Procurement Division

Subject: Request for Responsiveness Determination RFP-01208: Court Case Management System

On May 24, 2019, proposals were received for the subject Solicitation. Upon further review of the proposals, it was noted that the Proposal from Pioneer Technology Group included the following statement in response to Form 1, Table B2 of the Solicitation: "Custom Development (2,000 Hours)."

Form 1, Section A of the Solicitation states the following, "Pricing shall not be based on a time and materials engagement." (emphasis in original document). Please review this item and advise whether the proposal is responsive.

Attachments (provided electronically):

RFP-01208 – Form 1

Proposal from Pioneer Technology Group (Please see page 168 of the PDF document)



MEMORANDUM
(Revised)

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

DATE: July 8, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(F)(2)

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)(2)
7-8-20

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO SOLICIT NEW PROPOSALS FOR THE PURCHASE OF GOODS AND SERVICES RELATED TO THE COURT CASE MANAGEMENT SYSTEM; LIMITING COMPETITION TO THOSE WHO OFFERED PROPOSALS IN CONNECTION WITH RFP-01208; ESTABLISHING METHODOLOGY FOR SOLICITATION; AND WAIVING COMPETITIVE BIDDING PURSUANT TO SECTION 5.03(D) OF THE HOME RULE CHARTER, SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, AND IMPLEMENTING ORDER NO. 3-38 BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT

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:

Section 1. Authorizes the Mayor or Mayor's designee to solicit new proposals for the purchase of goods and services related to the Court Case Management System, limiting response to the solicitation to those persons who offered a proposal in connection with RFP-01208 and otherwise substantially in conformance with the process outlined in the accompanying memorandum.

Section 2. Waives competitive bidding pursuant to Section 5.03(D) of the Home Rule Charter, Section 2-8.1 of the Code of Miami-Dade County, and Implementing Order No. 3-38, by a two-thirds vote of the Board members present.

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 8th day of July, 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.

dsh

David S. Hope