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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: October 7, 2014

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

Agenda Item No. 8(F)(6)

From: Carlos A. Gimenez
Mayor

Subject: Recommendation to Reject all Proposals Received: ERP Implementation and Related Services

Resolution No. R-881-14

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the rejection of all proposals received for RFP No. 882, *ERP Implementation and Related Services.*

A Request for Proposals (RFP) was issued under full and open competition to solicit offers from qualified firms to provide implementation and integration services to lead a County-wide Enterprise Resource Planning, implementation of the PeopleSoft ERP applications, Hyperion Budgeting applications, and Oracle Analytics applications. The new ERP Solution will become the system of record/functionality for Human Resources, Procurement, Finance, Budgeting, and Reporting for the County. The selected proposer was to manage the implementation of an ERP solution capable of meeting the requirements including but not limited to application architecting, business process design, application modifications where required to meet business needs, implementation, configuration, testing, planning, data migration, documentation, training, development of required interfaces programs, change management, and subsequent post go-live support.

The County received four proposals in response to the referred solicitation. Only one proposal, received from ERP Analyst, Inc. was deemed responsive. One of the proposers (Highpoint) advised they did not submit a response to the implementation of the new ERP solution. The proposer advised they would work with whomever the County selected through this RFP process and "will mobilize appropriate features of the PeopleSoft system". The County Attorney's Office (CAO) opined that this proposal was not responsive. Two other proposals (Oracle and KPMG) included language that included material deviation from the requirements that proposers submit firm offers. The language in the solicitation requested that proposals be submitted which "shall be the proposer's firm commitment to provide the goods and services solicited in the manner requested in the Solicitation and described in the proposal". Oracle stated in its proposal that the proposal is based upon information the County provided to Oracle and is intended for the County's evaluation purposes only. The proposal further stated "It is not for execution or incorporation into a contract that may result between you and Oracle. Neither you nor Oracle shall be obligated in any way until such time as we have agreed upon the terms and condition and executed a final agreement." The CAO opined that this language materially deviated from the RFP's stated intent of having a proposer submit a firm offer, and as such was found non responsive.

The Evaluation/Selection Committee (Committee) met on May 22, 2014 to review the responsiveness decision as detailed in the CAO's May 8, 2014 opinion. The Committee discussed the remaining response proposal from ERP Analysts, Inc. The Committee was concerned that having only one proposal to evaluate eliminated the benefits of competition, and the opportunity to secure a best value for this significant procurement. The implementation and integration of this software is a countywide initiative. The resubmitted award will allow for implementation of a system of record for the County. Functionality for each of these departments is critical to countywide operations for decades to come. The Committee indicated its goal was to select among the best firms, through competition, that could provide the best possible quality and pricing for implementation of these services. Since three of the

four proposals were deemed non-responsive, the Committee recommended that all proposals be rejected and a new RFP be issued as soon as is reasonably possible.

A replacement RFP is being prepared with modifications to introduce more flexible language pertaining to the submittal of firm offers.

Scope
The impact of this item would have been countywide.

Fiscal Impact/Funding Source
The fiscal impact of the total four-year contract term was anticipated to be approximately $25,000,000.

Track Record/Monitor
The contract manager is Tara C. Smith, Manager of Strategic Initiatives, of the Internal Services Department. Andrew Zawoyski, CPPO, of the Internal Services Department is the Procurement Contracting Officer.

Vendors Not Recommended for Award
An RFP was issued under full and open competition on September 16, 2013. Four firms responded to the solicitation. The Evaluation/Selection Committee recommended to reject all proposals.

Proposers	Reason for Not Recommending
ERP Analyst, Inc.	Rejection of all proposals
HighPoint Technology Solutions, Inc	
KPMG LLP	
Oracle America, Inc.	

Applicable Ordinances and Contract Measures
- The two percent User Access Program will apply.
- Local Preference was included in the solicitation and did not affect the outcome.
- The Living Wage Ordinance will apply.

Alina T. Hudak
Deputy Mayor

Memorandum

MIAMI-DADE COUNTY

Date: May 8, 2014

To: Lester Sola, Director
Internal Services Department

From: Hugo Benitez
Assistant County Attorney

Subject: ISD Project No. RFP 882 ERP
Responsiveness of Oracle America, Inc., KPMG, LLP, and Highpoint Technology

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You have asked us for a written opinion relating to the responsiveness of Oracle America, Inc. ("Oracle") KPMG, LLP ("KPMG") and Highpoint Technology ("Highpoint") in connection with RFP 882 ERP. In essence you have asked our office to summarize the discussions that we have had further to our prior opinions dated December 17, 2013 (finding Oracle not responsive), January 27, 2014 (finding Highpoint not responsive) and January 28, 2014. For the reasons set forth below, we find Oracle, KPMG and Highpoint not responsive to the solicitation. This opinion clarifies and rescinds the prior opinion dated January 28, 2014 insofar as it found KPMG's proposal responsive with respect to the issues discussed therein.

Background

In providing this opinion, we have relied on the representations made in the memoranda from Internal Services Department and our conversations with your staff. We also rely on our review of the RFP documents and the proposals. We have also considered the post opening submittals by the vendors, most significantly, the arguments raised by Oracle on January 31, 2014 and an e mail communication from KPMG to your department dated January 20, 2014.

On or about November 2013, the County issued RFP No. 882 (the "RFP"). RFP, Cover page. The stated purpose of the RFP was to obtain a firm offer by the proposer to perform the required services at the stated prices. Id; Section 1.3 ("A proposal shall be the Proposer's firm commitment to provide the goods and services solicited in the manner requested in the Solicitation and described in the proposal.") Section 4.8 ("The County may award a contract on the basis of initial offers received, without discussions. Therefore each initial offer should contain the Proposer's best terms from a monetary and technical standpoint"); Form B-1 ("The execution of this constitutes the unequivocal offer of proposer to be bound by the terms of its proposal . . .").

Discussion

The proposal of Highpoint is not responsive for the reasons set forth in the memorandum of January 27, 2014. Essentially, Highpoint failed to bid on all of the requested items. Despite the RFP's intent to obtain firm offers, both Oracle and KPMG qualified their offer in ways which render their proposal not firm, but instead contingent on further evaluation and negotiation. Because the RFP sought an offer which would not be qualified, the deviation contained in both offerings is material.

Oracle's proposal contains the following language: "The proposal is based upon information that you have provided to Oracle and is intended for your evaluation purposes only. It is not for execution or incorporation into a contract that may result between you and Oracle. Neither you nor Oracle shall be obligated in any way until such time as we have agreed upon the terms and conditions and executed a final agreement." Oracle proposal, General Terms and Conditions.

KPMG's proposal contains effectively the same limitation, albeit one step removed. KPMG's proposal states that "it is in all respects subject to our client and engagement acceptance procedures as well as the negotiation agreement and execution of a specific engagement letter or contract". KPMG, Contents page. The County inquired of KPMG whether there was a document in existence which set forth what those client and engagement acceptance procedures were. KPMG responded on January 20, 2014. It did not provide any printed material or other reference. Instead, KPMG identified "an internal portal used by KPMG personnel to process the approval of client *and engagement acceptance*". (Emphasis added). The communication went on to say that the "acceptance process assists the firm in determining if it will provide professional services to a prospective client". Further it details that steps may include a number of different factor involving the client but most significantly steps involving an evaluation of the proposed deal itself including "analysis of the proposed service, and pricing structure" and "analysis of contract terms, conditions, and certifications."

Because both Oracle and KPMG deviate materially from the RFP's stated intent of having the proposer state a firm offer both are non responsive. In this regard, we agree with Oracle's arguments in the letter of January 31, 2014 that both Oracle and KPMG should be treated in the same manner, although we find no basis for Oracle's arguments that they both be deemed responsive. Unfortunately, the language of the RFP leaves little room for interpretation. We stand ready to assist you should you wish, in the future, given the complexity of the deliverables, to provide for a more flexible procurement vehicle.

Please call me if you have any questions.

Hugo Benitez
Assistant County Attorney

Cc: Miriam Singer, Assistant Director
Internal Services Department

Andrew S. Zawoyski
CF Neg/Epr Specialist Developer

MEMORANDUM
(Revised)

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

DATE: October 7, 2014

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

SUBJECT: Agenda Item No. 8(F)(6)

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(F)(6)
10-7-14

RESOLUTION NO. R-881-14

RESOLUTION AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO REJECT ALL PROPOSALS RECEIVED FOR THE REQUEST FOR PROPOSALS TO PROVIDE IMPLEMENTATION AND INTEGRATION SERVICES TO LEAD A COUNTY-WIDE ENTERPRISE RESOURCE PLANNING IMPLEMENTATION OF THE PEOPLESOFT APPLICATIONS, HYPERION BUDGETING APPLICATIONS, AND ORACLE ANALYTICS APPLICATIONS RFP NO. 882

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 all proposals received for Request for Proposals No. 882 to provide implementation and integration services to lead a County-wide Enterprise Resource Planning implementation of the PeopleSoft ERP applications, Hyperion Budgeting applications, and Oracle Analytics applications.

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

Rebeca Sosa, Chairwoman	**aye**		
Lynda Bell, Vice Chair	**aye**		
Bruno A. Barreiro	**aye**	Esteban L. Bovo, Jr.	**aye**
Jose "Pepe" Diaz	**absent**	Audrey M. Edmonson	**aye**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Jean Monestime	**aye**	Dennis C. Moss	**aye**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**aye**
Juan C. Zapata	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of October, 2014. 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: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Hugo Benitez