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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Agenda Item No. 8(F)(5)

Date: January 20, 2016

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Recommendation for Approval to Award: Extended and Limited Use Contactless Smartcards

Resolution No. R-33-16

Recommendation

It is recommended that the Board of County Commissioners (Board) approve award of *Contract No. FB-00190, Extended and Limited Use Contactless Smartcards*, to the vendors set forth below for the purchase of proximity integrated circuit cards (i.e., smartcards used for public transit fare collection) for use by the Miami-Dade Transit Department.

Smartcards, which are the size of a credit card, are embedded with integrated circuits that process and store monetary and time data. The contract allows the purchase of smartcards, branded by the Transit Department as EASY Cards and EASY Tickets, to be used in conjunction with the existing automated fare collection system. The EASY Card is a durable, plastic, time-based (one-month, seven-day or one-day) reloadable fare card with a 20-year lifespan. The EASY Ticket is a disposable, paper-based fare card that expires after 60 days and is designed for visitors and infrequent commuters. The EASY Cards and EASY Tickets are sold to Metrobus and Metrorail riders as a fare collection method. Metrorail patrons must use an EASY Card or EASY Ticket as the fare gates do not accept cash.

The contract includes two (2) groups. Group 1 is for Easy Cards, which are parceled individually. Group 2 is for EASY Tickets parceled in rolls of 1,000 and EASY Tickets parceled individually.

On August 13, 2015, the County Mayor signed an award recommendation for this contract, awarding ASK-intTag, LLC for both groups. Subsequently, on September 10, 2015, the County Attorney's Office reversed its initial opinion which found Confidex LTD to be non-responsive (See Attachment 1). The County Attorney's Office found Confidex LTD to be a responsive bidder, and Confidex LTD offered the lowest price in Group 2.

Based on the aforementioned set of facts, the County Mayor has rescinded his August 13, 2015 recommendation and instead recommends award of Group 1 to ASK-intTag, LLC and award of Group 2 to Confidex LTD.

Scope

The impact of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the five-year term is $4,689,000. The current contract, *9089-3/14*, is valued at $8,625,000 for five (5) years and six (6) months and expired on August 28, 2015. The difference in allocation under the replacement contract is attributed to lower pricing of EASY Cards ($0.43 less per card) and EASY Tickets ($0.0833 less per card) due to the competitive procurement process as well as lower estimated quantities for EASY Tickets.

Department	Allocation	Funding Source	Contract Manager
Transit	$4,689,000	MDT Operating Revenues	Rodney McMillan
Total	**$4,689,000**		

Track Record/Monitor
The Contract Manager is listed in the table above. Jesus Lee of the Internal Services Department is the Procurement Contracting Officer.

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 pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38.

Vendors Recommended for Award
An Invitation to Bid was issued under full and open competition on March 2, 2015. Ten (10) vendors responded to the solicitation. The method of award was to the lowest responsive, responsible bidder by group.

Awardee	Group	Principal Address	Local Address	Principal
ASK-intTag, LLC	1	1000 River Street, Building 966 Essex Junction, VT	None	Edward Hurley
Confidex LTD	2	Lumpeenkatu 6 Tampere, Finland	None	Ari Juhani Siponmaa

Vendors Not Recommended for Award

Vendor	Reason for Not Recommending
ABnote USA, Inc.	Higher than lowest for Group 1; No Bid for Group 2
Giesecke & Devrient America, Inc.	
Converlogic Inter LLC d/b/a Converlogic Americas	Higher than lowest
Electronic Data Magnetics, Inc.	
Northrock Enterprises, LLC	
Paragon Identification SAS	
Magnadata USA, Inc.	
Magnetic Ticket & Label Corp.	Higher than lowest for Group 1. Deemed non-responsive by the County Attorney's Office for Group 2 as the vendor failed to submit a bid for all items within the group as required by the solicitation. The opinion from the County Attorney's Office is included as Attachment 2 to this memorandum.

*A "No Bid" means the vendor responded indicating it will not be providing an offer.

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 contractor responsibility, including verifying corporate status and that there are no performance or compliance issues with the recommended vendor. The lists that were referenced include: convicted vendors, debarred vendors, delinquent contractors, suspended vendors and federal excluded parties. There were no adverse findings relating to contractor responsibility.

Applicable Ordinances and Contract Measures
- The two (2) percent User Access Program provision applies and will be collected on all purchases.
- The Small Business Enterprise Bid Preference and Local Preference ordinance apply.
- The Living Wage ordinance does not apply.

Attachments

Alina T. Hudak
Deputy Mayor

MEMORANDUM

Date: September 10, 2015

To: Jesus Lee
Procurement Contracting Officer 2
Internal Services Department

From: Bruce Libhaber
Assistant County Attorney

Subject: Request for Responsiveness Determination for ITB No. FB-00190: Title; Extended and Limited Use Contactless Smartcards

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You have previously asked this office if a bid submitted by Confidex, Ltd., one of the proposers on ITB No. FB-00190: Title; Extended and Limited Use Contactless Smartcards, was responsive. In a memorandum dated June 4, 2015, I previously advised that the bid submitted by Confidex, Ltd. was non-responsive and as such, should not be evaluated or considered for contract award. Subsequently, additional information has been provided and reviewed which requires a reconsideration of that June 4, 2015 opinion.

Of principle concern in the June 4, 2015 opinion, was the ability to ascertain who the correct bidder was. The cause of this concern was that Confidex, Ltd. did not provide a correct FEIN number in its bid submittal and the belief that Confidex, Ltd. was not a registered vendor with Miami-Dade County. Providing an incorrect FEIN number is an irregularity or defect that may be cured. Indeed, on May 7, 2015, Confidex, Ltd., via email, acknowledged that it did not provide a correct FEIN number with its bid and did in turn provide the correct number in that email. A secondary cause of confusion was that there did not appear to be a Miami-Dade registered vendor by the name of Confidex, Ltd. Instead, there was a registered vendor with Miami-Dade County named Confidex Oy. To begin with, the status as a Miami-Dade County registered vendor is one of responsibility not responsiveness. Furthermore, subsequent to my June 4, 2015 opinion, I was presented documentation which shows that Confidex, Ltd. did indeed complete the application for Miami-Dade County register vendor status months prior to the bid submittal deadline. Perhaps most importantly, further research indicates that Confidex, Ltd. and Confidex Oy are one and the same. On or about May 7, 2015, a representative of Confidex, Ltd. represented to Miami-Dade County, in writing, that Confidex Oy and Confidex, Ltd. were the same entity. That representation was reasserted on August 18, 2015 by Confidex, Ltd.'s counsel in its Intent to Protest filing. Additionally, a computer search confirms that in Finnish, the word Oy means limited corporation or ltd. *See* www.thefreedictionary.com. Additionally, subsequent to the June 4, 2015 opinion, I received from Confidex Ltd's counsel a copy of Confidex Ltd.'s Articles of Association, dated February, 2015. Said Articles of Association provides further confirmation that Confidex Ltd. and Confidex Oy are one and the same.

Previously addressed in the June 4, 2015 opinion was the issue that Confidex, Ltd. was not registered with the Florida Department of Corporations as an entity authorized to do business in Florida. Similar to the issue of one's status as a Miami-Dade County registered vendor, registering with the Florida Department of Corporations is a matter of responsibility and not responsiveness. In any event, Confidex, Ltd., as of August 17, 2015, is a corporation authorized to do business in Florida.

Therefore, for the aforementioned reasons, the bid submitted by Confidex, Ltd. is responsive. As such, Confidex Ltd's bid should be evaluated and considered for contract award.

Bruce Libhaber

Bruce Libhaber

Attachment 2

Memorandum

MIAMI-DADE COUNTY

Date: June 22, 2015

To: Jesus Lee
Procurement Contracting Officer 2
Internal Services Department

From: Bruce Libhaber
Assistant County Attorney

Subject: Request for Responsiveness Determination for ITB No. FB-00190: Title; Extended and Limited Use Contactless Smartcards

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You have asked this office if the bid submitted by Magnetic Ticket & Label Corp. ("Magnetic") for Solicitation FB-00190 (Extended and Limited Use Contactless Smartcards) is responsive. For the reasons set forth below, we conclude that Magnetic's bid is *non-responsive*.

FACTS

We rely on the information provided in your June 5, 2015 memorandum regarding the bidding issues and the attachments to that memorandum including the terms of the solicitation itself and the bid submitted by Magnetic. The purpose of the solicitation is to establish a contract for the purchase of extended and limited use contactless smartcards for the Miami-Dade Transit system. Proposers could bid on Group 1 and/or Group 2. Group 1 consisted of EASY Cards parceled individually. Group 2 included two items. Item 1 within Group 2 was EASY Tickets parceled in rolls of 1,000. Item 2 within Group 2 was EASY Tickets parceled individually/pre-cut. Magnetic submitted a bid for Group 2 only. The solicitation's method of award provision provided:

> Award of Group 2 will be to the responsive, responsible Bidder who submits an offer on all items listed in this Group and whose offer represents the lowest price when all items are added in the aggregate.

Magnetic failed to offer bid prices for the EASY Tickets parceled in rolls of 1,000 (Item 1 within Group 2). Indeed, Magnetic's bid form reads N/A as a price for that item.

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 Glatstein v. City of Miami, 399 So. 2d 1005 (Fla. 3d DCA 1981).

Magnetic's failure to provide bid prices on an item deprives the County of the assurance that the contract will be performed and guaranteed in accordance with the terms of the solicitation and thereby renders Magnetic's bid non-responsive. See Matter of: New Shawmut Timber Co., B-286881, 2001 CPD P 42, 2001 WL 185214, *1 (Comp. Gen. Feb. 26, 2001) ("The failure to include a price for a line item evidences a bidder's intent not to be bound or obligated to perform that element of the requirement, and thus generally renders the bid nonresponsive."); Matter of: The Jorgensen Forge Corp., B-255426, 94-1 CPD P 157, 1994 WL 64911, *2 (Comp. Gen. Feb. 28, 1994) ("Where, as here, an IFB provides that award will be made to the low aggregate bidder, a bid that fails to include a price for every item required by the IFB generally must be rejected as nonresponsive since the bidder would not be obligated to provide the item for which it has provided no price.").

For the aforementioned reasons, Magnetic's bid is non-responsive and may not be considered for award.

Bruce Libhaber

Bruce Libhaber

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: January 20, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(F)(5)

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 ____, 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)(5)
1-20-16

RESOLUTION NO. R-33-16

RESOLUTION APPROVING AWARD OF CONTRACT NO. FB-00190 FOR PURCHASE OF EXTENDED AND LIMITED USE CONTACTLESS SMARTCARDS FOR THE MIAMI-DADE TRANSIT DEPARTMENT IN A TOTAL AMOUNT NOT TO EXCEED $4,689,000.00; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO GIVE NOTICE OF THIS AWARD, ISSUE THE APPROPRIATE PURCHASE ORDER TO GIVE EFFECT TO SAME AND EXERCISE ALL PROVISIONS OF THE CONTRACT PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE 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-00190 for purchase of extended and limited use contactless smartcards for the Miami-Dade Transit Department as set forth in the incorporated memorandum in a total amount not to exceed $4,689,000.00, and authorizes the County Mayor or County Mayor's designee to give notice of this award, issue the appropriate purchase order to give effect to same and exercise all provisions of the contract pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38. A copy of the contract is on file with and available upon request from the Internal Services Department, Procurement Management Services Division.

The foregoing resolution was offered by Commissioner **José "Pepe" Diaz**, 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:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of January, 2016. 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: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Bruce Libhaber

Memorandum

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Charles Scurr, Executive Director

Date: December 16, 2015

Re: **CITT AGENDA ITEM 5E:**
RESOLUTION BY THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST RECOMMENDING THAT THE BOARD OF COUNTY COMMISSIONERS (BCC) APPROVE AWARD OF CONTRACT NO. FB-00190 FOR PURCHASE OF EXTENDED AND LIMITED USE CONTACTLESS SMARTCARDS FOR THE MIAMI-DADE TRANSIT DEPARTMENT IN A TOTAL AMOUNT NOT TO EXCEED **$4,689,000.00**; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO GIVE NOTICE OF THIS AWARD, ISSUE THE APPROPRIATE PURCHASE ORDER TO GIVE EFFECT TO SAME AND EXERCISE ALL PROVISIONS OF THE CONTRACT PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38 **(MDT – BCC Legislative File No. 151979)**

On December 16, 2015, the CITT voted (12-0) to forward a favorable recommendation to the Board of County Commissioners (BCC) for the approval of the above referenced item, CITT Resolution No. 15-052. The vote was as follows:

Paul J. Schwiep, Esq., Chairperson – Aye
Hon. Anna E. Ward, Ph.D., 1st Vice Chairperson – Aye
Glenn J. Downing, CFP®, 2nd Vice Chairperson – Aye

Joseph Curbelo – Aye
Alfred J. Holzman – Aye
Jonathan Martinez – Aye
Miles E. Moss, P.E. – Aye
Marilyn Smith – Aye

Peter L. Forrest – Aye
Prakash Kumar – Aye
Alicia Menardy, Esq. – Aye
Hon. James A. Reeder – Absent
Hon. Linda Zilber – Aye

cc: Alina Hudak, Deputy Mayor
Bruce Libhaber, Assistant County Attorney