

Memorandum



Date: February 26, 2013

To: Lester Sola, Director
Internal Services Department

From: Miriam Singer, CPPO, Assistant Director
Internal Services Department

Subject: Recommendation for Approval of Contract Award: Legal Research Services for Inmates (Contract No. 9672-0/17)

Approval of this contract award which is within your delegated signature authority is requested. The awarded vendor(s), amounts, and contract terms are shown below. Please refer to the attached documents which provide, in detail, the justification/need for this award, which is also briefly described below.

It is recommended that you approve the award of this contract to the vendor listed below to provide legal research services to inmates housed by the Miami-Dade Corrections Department (MDCR). This recommendation is supplementary to the December 20, 2012 recommendation (attached), approved by the County Mayor, that the informal bid protest filed by Prison Solutions d/b/a Legal Research Associates, FL (LRA) be upheld and that the award recommendation to The Watching Executive's Conduct, Inc. / National Network of Professional Associates, Corp. (WEC) be rescinded.

The initial award recommendation for this contract was approved on October 26, 2012. The recommendation was made to award WEC as primary awardee, and Prison Solutions d/b/a Legal Research Associates (LRA) as secondary awardee. Due to the receipt of a protest, proceedings were held and protest points evaluated. After careful review of relevant information available, evaluation of discussions held at the settlement proceedings, review of documents submitted by the protester and primary awardee, and the recommendation of the MDCR Director (see attached memorandum dated December 19, 2012), it was recommended that the County Mayor uphold the informal protest filed and rescind the award recommendation under Contract No. 9672-0/17. The recommendation to rescind the original award was approved on February 15, 2013. Accordingly, it is hereby requested that approval to award this contract to LRA be granted.

Contract Number: 9672-0/17
Contract Title: Legal Research Services for Inmates
Contract Amount, Term and Cumulative Value: \$199,500 for five years
Prior Contract and Term: \$968,000 for four years and six months
UAP Applies: Yes
Measures: SBE Bid Preference and Local Preference

User Department / Allocation / Funding Source(s):

Department	Allocation	Funding Source
Corrections and Rehabilitation	\$ 199,500	General Fund

Recommended Vendor(s):

Awardee(s)	Address	Principal
Prison Solutions d/b/a Legal Research Associates	3943 Ocita Drive Orlando, FL	Mark Cacho

Vendor(s) Not Recommended For Award:

Vendor	Reason for Not Recommending
Gonzalo Alberto Gayoso, Esquire	Bid was higher than the lowest Bidder. Additionally, Bidder did not comply with minimum qualification requirements.
The Watching Executive's Conduct, Inc.	Award has been rescinded after careful review of relevant information, evaluation of discussions held at the settlement proceedings, and review of documents submitted by the protester and The Watching Executive's Conduct, Inc. The County's findings included: 1) unreliable references serving dual roles as two of three references were employees of the firm, 2) a personal reference that was unable to validate the firm's capacity to provide the services requested, resulting in the firm not meeting the requirement of providing the services for two consecutive years, and 3) the firm misrepresented one of their key personnel as an attorney, which after further investigation, was discovered, is not eligible to practice law in the State of Florida.

Procurement Officer: Martha Perez-Garviso



Lester Sola on behalf of Mayor Carlos A. Gimenez
Approved

2/28/13
Date

Memorandum



Date: December 19, 2012

To: Carlos Gimenez, County Mayor

VIA: Genaro "Chip" Iglesias, Chief of Staff/Deputy Mayor
Office of the Mayor

From: Timothy P. Ryan, Director
Miami-Dade Corrections and Rehabilitation Department

Subject: Recommendation of a Bid Protest by Legal Research Associates

Herein please find my recommendation relative to the selection of the Legal Services bid (Bid No. 967 2-0/17). Initially a decision was made to award the bid to Watching Executives Conduct, Inc., (also known as National Network of Professional Associates Corporation) as the lowest bidder. However, subsequent to a bid protest by Legal Research Associates, Inc. (the 2nd vendor in the RFP process), certain compelling facts relative to that decision were evidenced as not previously considered which have now been researched and applied in this recommendation.

Listed below are significant concerns as to whether the Watching Executives Conduct, Inc., demonstrates that it is responsible to provide services on behalf of a law enforcement agency and the reliability to perform at the level of expectancy of this legal service bid.

- The Chief Executive Officer of Watching Executives Conduct, Inc., has an extensive criminal history that includes convictions for cocaine possession and attempted armed robbery (convicted in 2001) as well as numerous arrests. He is also a habitual traffic offender resulting in the revocation of his license and an outstanding warrant for his arrest in Broward County.
- Two of the assigned staff attorneys of Watching Executives Conduct, Inc., have either been suspended or permitted a disciplinary resignation by the Florida Bar Association.
- Watching Executives Conduct, Inc., failed to meet minimum qualifications of references. Only one of the three references recorded stipulated years of consecutive service required by the bid.
- Watching Executives Conduct, Inc., failed to meet bid standards set forth in 2.6.1-Minimum Qualifications and Required Submittals. The bidder must have performed the services stipulated for a minimum of two consecutive years within five years preceding the due date of the response to ITB.
- There are serious concerns of credibility and accountability with Watching Executives Conduct, Inc.'s staff.

For the reasons outlined above, it is my recommendation that the initial bid recommendation be rescinded and that the award be offered to Legal Research Associate of Florida. The work provided by Legal Research Associates has been upheld in several recent decisions by the United States District Court for the Southern District of Florida, in that these services in lieu of law libraries in jails satisfies the constitutional mandate that inmates be afforded access to courts. Some of those cases include:

- *Harold McIntye v. Timothy Ryan*, Case No. 80-22245-Civ-Lenard (S.D.Fla. Sept. 16, 2008). The inmate has access to professional research providers who will obtain the information for him. There is no constitutional right for a prisoner to conduct his own research via a computer.

- *Charles Eato v. Carlos Alvarez, et al.*, Case No. 80-23555 (S.D. Fla. 2008). "All allegations that his constitutional right to self representation is being violated has no merit because the facility is under no constitutional obligation to provide a law library."

The magnitude of meeting the legal services of the inmate population and our ability to defend against litigation issues is of the utmost importance for the Department. The possibility of achieving this level of success through services offered by Watching Executives Conduct, Inc., does not appear achievable. I believe the Legal Research Associates gives the Department the greatest potential of achieving the service goals for a jail system of Miami-Dade County's size. Therefore, I recommend that the initial bid recommendation be rescinded and that the bid be awarded to the Legal Research Associates of Florida.

TR/dc

- c: **Monica Rizo, Assistant County Attorney**
Lester Sola, Director, Internal Services Department
Miriam Singer, Assistant Director, Internal Services Department
Daniel Mera, Assistant Director, Miami-Dade Corrections and Rehabilitation Department
Donald Coffey, Division Chief, Miami-Dade Corrections and Rehabilitation Department

Memorandum



Date: December 20, 2012

To: Honorable Carlos A. Gimenez
Mayor

Through: Lester Sola, Director
Internal Services Department 

From: Miriam Singer, CPPO
Assistant Director
Internal Services Department 

Subject: Recommendation to consider the Informal Protest of the Award Recommendation to The Watching Executive's Conduct Inc./ National Network of Professional Associates Corp. under contract 9672-0/17; Legal Research Services for Inmates.

RECOMMENDATION

It is recommended that the County Mayor uphold the informal protest filed by Prison Solutions d/b/a Legal Research Associates, FL (LRA) and rescind the award recommendation to Watching Executives Conduct, Inc./ National Network of Professional Associates Corp. (WEC) for Contract No. 9672-0/17.

BACKGROUND

On July 26, 2012, the Internal Services Department's (ISD), Procurement Management Services Division (PM), issued a solicitation on behalf of Miami-Dade Corrections and Rehabilitation Department (MDCR) for legal research services. Inmates within MDCR jail facilities have a constitutional right of access to the courts; therefore MDCR requires the services of a legal research provider for inmates. Federal law requires, MDCR to provide inmates access to law libraries or adequate assistance in the preparation and filing of meaningful legal documents.

A total of three bids were received in response to the referenced solicitation issued under full and open competition. The method of award assigns a primary and secondary vendor based on the two lowest priced responsive and responsible bidders. WEC submitted the lowest-priced bid and LRA, the incumbent vendor, submitted the second lowest-priced bid.

Since WEC has never provided these services to the County, or to any other governmental or private corrections facility, an assessment of the firm's ability to meet the requirements of the bid and contract was made. A responsibility meeting was held on August 23, 2012. Present at the meeting were representatives from WEC, ISD-PM, and MDCR staff. During this meeting, WEC responded to questions from the County regarding its experience and capacity. WEC presented its approach to meet the requirements of the bid to the satisfaction of the County. Additionally, a site inspection of WEC was conducted on October 10, 2012. After a review of the available information, a recommendation to award to WEC as the primary awardee, and LRA as a secondary awardee was made.

The award recommendation was filed and posted with the Clerk of the Board on October 26, 2012. On October 29, 2012, LRA filed a Bid Protest (see Attachment 1). In accordance with Implementing Order (I.O.) No. 3-21, the bid protest submitted by LRA is considered an Informal Protest based on the dollar value of the proposed contract (\$136,500). Accordingly, the Procurement Director or designee is required to provide the protestor an opportunity to settle the protest. On November 6, 2012, a meeting was held to provide LRA with the opportunity to settle the protest. This meeting was conducted via a

conference call. The meeting included staff from PM, MDCR, and LRA. At the meeting staff reviewed LRA's protest points. LRA representatives declined settlement of the protest and requested a second meeting.

On November 27, 2012, a second meeting was held, at the request of LRA, with MDCR, PM, and CAO staff. Additionally, staff from WEC, WEC's attorney, LRA staff and LRA's attorney were in attendance. At the meeting, LRA's attorney, advised of newly discovered responsibility issues against WEC and provided supporting documentation (see Attachment 2) that raised concerns.

PROTEST POINTS:

LRA's protest of the recommendation to award WEC as the primary vendor claims that:

- (1) WEC misrepresented the criminal record of its CEO, including that the CEO has an outstanding warrant for his arrest in Broward County as well as dozens of arrests and multiple convictions over the past 15 years;
- (2) WEC failed to meet minimum qualifications and misrepresents the status of references and independent contractors by listing three "occasions" when it provided services to only three individuals;
- (3) WEC has been a legal business entity for less than seven months and submitted in their bid package, articles of incorporation from 2/4/09 which does not list "legal research services" as one of the specific purposes for the formation of the company;
- (4) WEC's listing of references conflicts with reference verification and fails to demonstrate the competence and capacity to handle expected volume of work;
- (5) it is not appropriate for a convicted felon to interact with "pre-sentenced and convicted individuals" and that WEC's CEO would not even be able to set foot in the corrections' facilities because of his past criminal record; and
- (6) Several of WEC's employees and subcontractors have disciplinary histories with the Florida Bar (i.e. suspensions or disbarments) that reflect negatively on the responsibility of the firm; and
- (7) The use of County-funded facilities for WEC's main offices violates the terms of solicitation document and provides WEC an unfair competitive advantage.

In particular, with respect to points 2 and 4 above, LRA maintains that:

- 1) WEC submitted Leroy Lee Associates in their bid as their first client reference, claiming they performed work from 12/08 through 4/12, including conducting research for one pro-se inmate. Additionally, WEC submitted a retainer agreement for legal representation with the firm Leroy Lee Associates dated 2/24/12.
- 2) WEC submitted Evan Crawford in their bid as their second client reference; they claimed that the firm performed work for this individual from 7/12 to present, and also for one pro-se inmate. Evan Crawford is also listed as an employee and/or subcontractor that will be providing services under this solicitation. Mr. Crawford has a disciplinary history with the Florida Bar that includes a suspension and probation.

- 3) WEC submitted Gerald Williams in their bid as a third client reference, also a single pro-se inmate with no valid address for verification. This reference was substituted for a reference by Tawanda Wright, yet, WEC never provided services to Ms. Wright but rather, claimed they provided services to one of her family members.

WEC'S PARTICIPATION AND RESPONSE

At the November 27, 2012 meeting, WEC and its attorney were provided the opportunity to respond to LRA's protest allegations and arguments verbally and in writing. WEC declined to respond at that time, and was given until Friday, November 30, 2012 to provide a written response to the protest. WEC submitted a written response on December 10, 2012. WEC failed to address any of the protest points raised by LRA, and instead submitted copies of various County Code provisions, a Corrections manual, a County report on inmate law services, court documentation for the alleged warrant of Allan T. Stuart, and a Miami-Dade County Blue Ribbon Advisory Committee Comprehensive Report which focuses on County jails and re-entry of ex-offenders into local communities.

COUNTY FINDINGS AND CONCLUSION

ISD PM staff have carefully reviewed all of the relevant information available, and evaluated the discussion at the settlement proceedings, as well as reviewed documents submitted by both LRA and WEC. It is recommended that the award recommendation to WEC be rescinded based on the following:

1. WEC submitted two references that are listed as employees. These two persons (Leroy Lee, and Evan Crawford) also were listed as references to attest to and verify WEC's experience and qualifications. It is important to note that WEC did not list these individuals as subcontractors. It is not clear what the actual relationship is. Moreover, with respect to Mr. Crawford, WEC claimed they began providing services for him only one month prior to the bid due date- after the bid had been advertised- and thereafter listed him as also providing services for WEC if awarded the solicitation. The aforementioned references are serving dual roles; therefore these references are not considered reliable or acceptable.
2. WEC submitted at least one reference that is a personal reference stating that WEC assisted a family member in a criminal case. No contact information was provided for this family member who actually received assistance and therefore staff was unable to verify with the actual user/customer the services provided by WEC. Moreover, this reference does not validate WEC's capacity to respond to the volume of research required by MDCR inmates. The remaining references combined do not meet the requirement of providing the services for a minimum of two consecutive years.
3. Although the solicitation does not require use of an attorney for the delivery of these services, WEC submitted a table of organization identifying Leslie Hecker as an "attorney". Upon further investigation of documents submitted by LRA, and The Florida Bar's website, ISD staff has confirmed that Ms. Leslie Faye Hecker is not eligible to practice law in Florida. This is a significant and material misrepresentation.

**Recommendation to Consider the Informal Protest
Protest Recommendation for Contract No. 9672-0/17
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Referenced Attachments

Attachment 1 LRA's Informal Protest Letter
Attachment 2 Letter from LRA's Attorney and Supporting Documentation
Attachment 3 MDCR Recommendation

APPROVED


Carlos A. Gimenez
Mayor

2-15-13
Date

c: Monica Rizo, Assistant County Attorney, CAO
 Timothy Ryan, Director, MDCR
 Miriam Singer, CPPO, Assistant Director, ISD
 Amos Roundtree, Division Director, PM, ISD