

OFFICE OF THE COMMISSION AUDITOR MIAMI-DADE BOARD OF COUNTY COMMISSIONERS

COMMISSION AUDITOR'S INFORMATIONAL RESEARCH

HEALTH CARE AND COUNTY OPERATIONS COMMITTEE

October 16, 2020 9:30 A.M. Virtual Meeting

Yinka Majekodunmi, CPA Commission Auditor

Office of the Commission Auditor (OCA) 111 N.W. First Street, Suite 1030 Miami, FL 33128 (305) 375-2524

TABLE OF CONTENTS

DEPARTMENTAL ITEMS

INTERNAL SERVICES

3A (201676): Increased Spending for Landfill Gas Management Systems Contract	3
3B (201890): Contract Award to IBM for Purchase of Midrange Server Solution	7

Item No. 3A File No. 201676

Researcher: VW Reviewer: PGE

RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURE AUTHORITY IN AN AMOUNT UP TO \$1,623,000.00 FOR A MODIFIED TOTAL CONTRACT AWARD OF \$2,400,000.00 FOR CONTRACT NO. FB-00628 FOR LANDFILL GAS MANAGEMENT SYSTEMS FOR THE DEPARTMENT OF SOLID WASTE MANAGEMENT; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY EXTENSION OR CANCELLATION, PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38

ISSUE/REQUESTED ACTION

Whether the Board should approve additional expenditure authority in an amount not to exceed \$1,623,000 for *Contract No. FB-00628, Landfill Gas Management Systems*, for the Department of Solid Waste Management (DSWM), resulting in a modified contract value of \$2,400,000.

PROCEDURAL HISTORY

Prime Sponsor: None Department/Requester: Internal Services Department (ISD)

ANALYSIS

The purpose of this item is to grant additional expenditure authority for the operations, monitoring, and maintenance of the landfill gas collection system which is currently in the process of being upgraded. More specifically, the requested increased spending of \$1,623,000 is needed to expand DSWM's existing infrastructure by more than 50% to comply with time-sensitive permit requirements. Landfill gas collection systems are the systems put in place to deal with the excess gas that is naturally created during the decomposition of waste. Landfill gas generally contains about 50% methane and is either destroyed through combustion in a flare station or diverted to an on-site treatment facility for the conversion of the gas to energy. After filtering and compression, landfill gas can be used to power internal combustion engines, gas turbines, or microturbines to generate electricity.

Contract No. FB-00628, Landfill Gas Management Systems was awarded on February 12, 2019 under the Mayor's delegated authority. The contract was awarded with an allocation of \$777,000 effective as of March 1, 2019 and set to expire on February 29, 2024. The contract was established to provide funding for the operations, monitoring, and maintenance of the landfill gas collection system. At the time that the contract was solicited in 2018, DSWM had not anticipated that the landfill gas management system would require upgrading. Due to significant upgrades to the landfill gas extraction wells and flare stations at both the North Dade and South Dade landfills, additional monitoring and maintenance is being requested for the new infrastructure.

The justification provided by DSWM for the requested increase is as follows: The landfill managements system upgrades will increase the current infrastructure by more than 50% and will add to the cost of operating and maintaining these systems. Additional needs include the maintenance of the landfill gas system for Cell 4 of the South Dade Landfill, and the East Cell of the North Dade Landfill. DSWM anticipates that the cost to operate and maintain the Gas Collection and Control System will be approximately \$480,000 per year and is thus requesting an additional allocation of \$1,623,000 over five years to cover these costs.

The effective operation of the County's landfill gas management system is critical to ensuring that the County meets the requirements of its Title V Air Permits, mandatory greenhouse gas monitoring, and contractual obligations to supply

Item No. 3A File No. 201676

Researcher: VW Reviewer: PGE

landfill gas services as fuel for the production of electricity. Title V of the Clean Air Act of 1963 requires major sources of air pollutants such as waste incinerators to obtain an operating permit, to operate in compliance with that permit, and to certify at least annually their compliance with permit requirements. The upgrading of the County's landfill gas management system was done to ensure compliance with Title V of the Clean Air Act and the additional expenditure authority being requested at the Board is similarly being requested to ensure that the County can meet all federal regulations regarding air quality.

According to the pool's Blanket Purchase Order, DSWM's existing cumulative allocation is \$777,000 of which \$777,000 has been released (as of October 9, 2020), leaving a balance of zero. DSWM has exhausted its \$777,000 allocation roughly 3 months into the 60-month contract. The Purchase Order found in BTS shows a posted date of May 17, 2019 for an amount of \$ 777,000 yet this modification is slated for Board approval on October 20, 2020.

Table 1 below shows the initial contract award value, this item's requested value, the total modified contract value if this item is approved and an arrow representing the percentage increase to the original award value considering the requested additional funds.

Award Type	Award Value
Initial Contract Award	\$777,000
Requested Modification	\$1,623,000
Modified Contract Value	\$2,400,000

Resolution No. R-391-17 requires the Administration to competitively solicit services rather than expanding the scope of services under an existing contract via a contract modification. Where competitively soliciting the expanded scope is not feasible, the mayor's contract modification memorandum shall set forth a justification for forgoing competition. Here, rather than competing the expanded scope of services, the item increases the contract value by over 200% to cover the cost of upgrading infrastructure not contemplated under the original scope, awarding the additional work to the existing vendor, SCS Field Services.

Item No. 3A File No. 201676

Researcher: VW Reviewer: PGE

Table 2 below details OCA's further due diligence review of the awarded vendor.

Awarded Firms	Corporate Registration	Tax Collector's Office	Florida DBPR	Litigation (Westlaw)
	Foreign Profit Corporation Active	Business address: 3900 Kilroy Airport Way Suite 100 Long	License Type: (Office	No relevant cases.
Stearns, Conrad & Schmidt, Consulting	Principal Address: 3900 Kilroy	Beach, CA 90806.	laptop not working; was unable to load	
Engineers, Inc.	Airport Way Suite 100 Long Beach, CA 90806	Paid and Current	page)	
	Filed: December 21, 1987			

An October 9, 2020 search on the Business Management Workforce System for the contract's Commodity Codes, 98846 – Landfill Services yielded one result: Blue Home Builders Corp., DBA BH Builders; Medley, Florida; SBE-G&S. Note that the fact there is a certified vendor under the commodity code for this procurement does not imply that the vendor is willing or capable of performing the required services.

APPLICABLE LEGISLATION/POLICY

Section 2-8.1 of the Code of Miami-Dade County (Contracts and Purchases Generally) applies to all contracts for public improvements and purchases of all supplies, materials and services other than professional services and (1) requires formal sealed bids for purchases over \$250,000; (2) describes the circumstances under which non-competitive purchases may be approved; (3) establishes requirements for legacy purchases, designated purchases, and single vehicle leases; and (4) provides that procurement procedures shall be established by I.O. and approved by the Board. https://library.municode.com/fl/miami_-

_dade_county/codes/code_of_ordinances?nodeId=PTIIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE

Resolution No. R-187-12, adopted February 21, 2012, directed the County Mayor to include due diligence information in memoranda recommending certain contract awards. http://www.miamidade.gov/govaction/matter.asp?matter=120287&file=true&fileAnalysis=false&yearFolder=Y2012

Resolution No. R-391-17, adopted April 4, 2017, directs the County Mayor to conduct competitive selections whenever feasible instead of expanding the term or services under existing contracts and to provide a written justification of why a competitive process is not feasible when an expansion of contract terms or services is requested. http://intra/gia/matter.asp?matter=170534&file=true&yearFolder=Y2017

Item No. 3A File No. 201676

Researcher: VW Reviewer: PGE

Resolution No. R-477-18, adopted May 1, 2018, directed the County Mayor to disclose to the Board the reasons goods and services are not being procured through local businesses when the recommendation is to award a contract to a nonlocal vendor or to establish a prequalification pool where less than 75 percent of the pool members are local businesses.

http://intra/gia/matter.asp?matter=180822&file=true&yearFolder=Y2018

Resolution No. R-716-12, adopted September 4, 2012, requires identification of small business enterprise firms in any procurement item submitted for Board approval. http://intra/gia/matter.asp?matter=121265&file=true&yearFolder=Y2012

Implementing Order 3-38 sets forth the County's policies and procedures for the procurement of goods and services. The I.O. references the obligations and responsibilities of the Internal Services Department; the authority to award; and the requirements for access contracts, emergency purchases, bid waivers, confirmation purchases and sole sources. http://www.miamidade.gov/aopdf/pdffiles/IO3-38.pdf

HCCO Meeting:	
October 16, 2020	
Research Notes	

Item No. 3B File No. 201890

Researcher: IL Reviewer: PGE

RESOLUTION APPROVING AWARD OF CONTRACT NO. RFP-01395 TO INTERNATIONAL BUSINESS MACHINES CORPORATION FOR PURCHASE OF MIDRANGE SERVER SOLUTION FOR THE INFORMATION TECHNOLOGY DEPARTMENT IN A TOTAL AMOUNT NOT TO EXCEED \$2,975,761.00 FOR THE FIVE-YEAR TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION OR EXTENSION PROVISIONS, PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38

ISSUE/REQUESTED ACTION

Whether the Board should authorize a contract award for *RFP No. 01395* to International Business Machines Corporation (IBM) for the purchase of a midrange server solution in an amount of up to \$2,975,761 for a five-year term for the Miami-Dade Department of Information Technology (ITD).

PROCEDURAL HISTORY

Prime Sponsor: None Department/Requester: Internal Services Department (ISD)

There is no procedural history for this item.

ANALYSIS

The purpose of this item is for the Board to approve a contract with IBM for a *Midrange Server Solution* which will include maintenance support services in an amount of up to \$2,975,761 for a five-year term for ITD. The Midrange platform was originally scoped for the Clerk of the Courts in 1995 and the Water and Sewer Department in 2003 and the vendor was IBM. Midrange Servers were intended to be used by small and medium-sized businesses that did not require the massive computing power of a mainframe.¹ On the other hand a mainframe is a large server intended for storing massive amounts of data and processing.² The mainframe and midrange server require hardware for storage and processing data. Cloud computing popularly known as the "Cloud" is a method of processing and maintaining data on remote servers. Both Midrange Severs and Mainframe Servers are viewed as more secure options by the industry.³ Moreover, the Cloud allows access to it from multiple locations with a stable internet connection. The Mainframe and Midrange Server do not rely on an internet connection because these servers tend to be in close proximity to the end users.⁴

Purchase of the first pSeries servers was competitively awarded in 2003 under the IT Hardware Contract No. 250-000-03-1. In 2016, the County established Legacy Contract No. L9130 for IBM Hardware, Software, Maintenance, Support, and Services. The awardee of the current legacy contract was IBM and is presently in its third option to renew and is scheduled to expire October 31, 2020. A fourth option to renew is still available and could potentially be executed on November 1, 2020. The main distinction between the current legacy contract and the proposed contract award (RFP No. 01395) is that the legacy contract will focus on the purchase of software, maintenance, support, professional services and cloud solutions

¹ Christopher Tozzi & Precisely Editor, MAINFRAME VS. MIDRANGE SERVER: WHAT'S THE DIFFERENCE, ANYWAY? PRECISELY (2020), https://www.precisely.com/blog/mainframe/mainframes-vs-midrange-servers-whats-the-difference-anyway (last visited Oct 15, 2020).

² Id. ³ Id.

⁴ Sophia Sharda, *How Are Mainframes Still Better Than Cloud?*, 17 IOSR JOURNAL OF COMPUTER ENGINEERING (IOSR-JCE) 14–14 (2015), https://iosrjournals.org/iosr-jce/papers/Vol17-issue1/Version-1/C017111415.pdf.

Item No. 3B File No. 201890

Researcher: IL Reviewer: PGE

and the proposed contract will focus on the purchase of hardware and related maintenance support services for the midrange servers. The Midrange Servers required by the County include hardware and software maintenance and migration services from the current servers running in the current Midrange complexes to the new acquired hardware.

In 2018, the draft scope of work for this solicitation was provided to several industry leading firms to provide feedback to the County and assist in determining if there was interest in the scope provided. Four vendors expressed an interest in the draft scope provided by responding to a Future Solicitation. Due to the interest shown by the vendors, RFP-01395 was issued on November 27, 2019 under full and open competition. Despite staff efforts to promote competition, only one response was received, and one "No Bid". Email notifications were sent to the firms that had expressed an interest in the draft scope during the market research, but did not submit a response, to inquire about their decision to not submit a response to the RFP. One response was received indicating that their company did not manufacture the required server.

The Fiscal impact concerning this item is a total dollar amount of \$2,975,761 with no options to renew. Table – 1 depicts the price schedule for the proposed RFP.

Table -1 Price Schedule

Category	Price
Hardware	\$ 1,551,426
Software	\$ 598,794
Maintenance	\$ 306,156
Professional	\$ 516,254
Total	\$ 2,969,631

*Information taken from Appendix B of the agreement

A request for proposals was advertised on November 27, 2019 to obtain proposals from qualified firms capable of meeting the demands of service. The solicitation was advertised via BidSync and was viewed by 68 potential vendors of which 3 downloaded the solicitation documents. The Bids were submitted and opened on February 11, 2020. Two proposers responded to the solicitation of which one of the two proposers was a "No Bid" and the other was IBM. Below is a procurement timeline underscoring the major milestones of RFP- No. 01395.



The scope for some of the main services is listed below: IBM will be responsible for:

- > Power 9 Migration Services and Spectrum Scale Installation.
- Discontinuance of Services consisting of the discontinuance of planning/management services, hardware services and mover services.
- Cisco Product Procurement and Related IBM Services consisting of the installation of network modules, SFP/XFP, and redundant power supply (up to four components), loading of designated IOS and application of customer provided configuration file.
- Technical Training for IBM Advanced Interactive Executive (AIX) and Spectrum Scale Products

Item No. 3B

File No. 201890

Researcher: IL Reviewer: PGE

IBM License Metric Tool (ILMT) Deployment Services, IBM will provide server sizing and capacity planning documents to Miami-Dade County for provisioning of a Windows virtual machine.

The Office of the Commission Auditor (OCA) conducted a due diligence review on October 8, 2020 of International Business Machines Corporation; see Table -2.

Table-2 due diligence review Corporate Filing Awarded Vendor Tax Collector Westlaw One Account International Foreign Case Name: Kinney et al v. International Business Profit Business Corporation Machines Corporation; Case No. 1:20-CV-00969; Machines Owner address: Court - U.S. District Court, Western District of Texas (Austin); Filed On $- \frac{09}{18}/2020$; Allegation Corporation Principal Address: 8000 Regency - Defendant discriminated against plaintiffs based New Orchard Road, Parkway Ste. 110, Austin, TX 78759 on their age by giving them baseless negative Armonk, NY 10504 performance reviews to justify their termination; Date Filed: 02/12/1934 Paid/Current Status- Ongoing (Summons Issued) Case Name: Van Meeuwen v. International Business Machines Corporation: Case No. 2:20CV04853; Court - U.S. District Court, Southern District of Ohio (Columbus); Filed on-09/16/2020; Allegation – Defendant discriminated the plaintiff based on the age by failing to prevent discrimination, provide reasonable accommodation and termination of plaintiff under the discrimination and other violations; Status-Ongoing (Notice of Appearance) Case Name: Zehnbauer v. International Business Machines Corporation et al; Case No. 7:20-CV-07542; Court - U.S. District Court, Southern District of New York (White Plains); Filed on-09/14/2020; Allegation-Defendants unlawfully terminated plaintiff's employment based on her disability and in retaliation for engaging in protected activity with respect to her disability and the disability of an individual with whom she was associated; Status – Ongoing (Request for Issuance of Summons) Case Name: VanDeWeghe v. International Business Machines Corporation; Case No. 3:20-CV-01289; Court – U.S. District Court, District of Connecticut (New Haven); Filed on -09/01/2020; Allegation - Defendant unlawfully discriminated

HCCO Meeting: October 16, 2020 Research Notes	
Item No. 3B File No. 201890	Researcher: IL Reviewer: PGE
	against and wrongfully terminated plaintiff employee on account of her age; Status – Ongoing (Electronic Summons issued)
	Case Name: Cahey et al v. International Business Machines Corporation; Case No. 1:20-CV-03620; Court – U.S. District Court, Northern District of Georgia (Atlanta); Filed on – 09/01/2020; Allegation – Defendant intentionally and willfully failed and refused to timely pay plaintiff the full and complete amount of commissions she earned from the deals she closed; Status – Ongoing (Complaint Amended)
	Case Name: Chiakpo v. IBM Corporation; Case No. 1:20-CV-11624; Court – U.S. District Court, District of Massachusetts (Boston); Filed on – 08/31/2020; Allegation – Defendant discriminated against plaintiff based on his race, national origin, and age by terminating his employment; Status – Ongoing (Notice of Appearance)
	Case Name: Gobin v. IBM Corporation et al; Case No. 1:20-CV-05430; Court – U.S. District Court, Southern District of New York (Foley Square)l Filed on – 07/10/2020; Allegation - Defendant discriminated against plaintiff by terminating his employment based on his age; Status – Ongoing (Last action was a consent for electronic service by the plaintiff)
	Case Name: Hayes et al v. IBM et al; Case No. 2:20-CV-00395; Court – U.S. District Court, District of Utah (Central); Filed on – 06/22/2020; Allegation – Defendants violated the ERISA by failing to provide coverage for plaintiff's treatment who was diagnosed with toxemia and labored for three days; Status – Ongoing (Order to Propose Schedule)
	Case Name: Degnan v. International Business Machines Corporation; Case No. 2:20-CV-02055; Court – U.S. District Court, Eastern District of Pennsylvania (Philadelphia); Filed on – 04/29/2020; Allegation – Defendant wrongfully

HCCO Meeting: October 16, 2020 Research Notes Item No. 3B File No. 201890 Researcher: IL Reviewer: PGJ	

OCA conducted a search of the Business Management Workforce System (BMWS) on October 8, 2020. The contract's Commodity Code is 96728 (<u>Computer Software Manufacturing Services</u>) and 20400 (Computer Hardware and Peripherals for Microcomputers). Eleven SBE-G&S certified firms were identified: Note that this listing does not indicate that the certified firms can perform the project's requirements.

- Amiritech Group LLC
- > The Combined Group Corp. Miami, FL
- 4 Best Business Corp., dba 4 Bbcorp
- Grupo Inpower, LLC, dba Inpower
- Informaservices.Org, Incorporated
- Jador International Corporation
- ➢ Laser Products, Inc.
- M.E. Global Supplies Inc
- Network & Communication Services, Inc.
- Southern Data Systems, Inc., dba Nettogo
- United Brake & Clutch, LLC

APPLICABLE LEGISLATION/POLICY

Section 2-8.1 of the County Code (Contracts and Purchases Generally) applies to all contracts for public improvements and purchases of all supplies, materials and services other than professional services and (1) requires formal sealed bids for purchases over \$250,000; (2) describes the circumstances under which non-competitive purchases may be approved; (3) establishes requirements for legacy purchases, designated purchases, and single vehicle leases; and (4) provides that procurement procedures shall be established by I.O. and approved by the Board.

_dade_county/codes/code_of_ordinances?nodeId=PTIIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE

Item No. 3B File No. 201890

Researcher: IL Reviewer: PGE

Section 2-8.1(b)(3) of the County Code prescribes that formal sealed bids for purchase of goods or services shall not be required where such formal sealed bids would not be practicable. https://library.municode.com/fl/miami_-

dade county/codes/code of ordinances?nodeId=PTIIICOOR CH2AD ARTIINGE S2-8.1COPUGE

Resolution No. R-187-12, adopted February 21, 2012, directs the County Mayor to include due diligence information in memoranda recommending certain contract awards. http://intra/gia/legistarfiles/MinMatters/Y2012/120287min.pdf

Resolution No. R-140-15, adopted February 3, 2015, directs the Mayor to conduct a full review of the scope, prior to the re-procurement of replacement contracts for goods or services to ensure such contracts reflect the current needs of the County, to include information in recommendations to the Board, and to consult with the Small Business Development Division regarding solicitation contract language.

http://www.miamidade.gov/govaction/matter.asp?matter=150090&file=true&fileAnalysis=false&yearFolder=Y2015

Resolution No. R-1011-15, adopted November 3, 2015, directs the Mayor to require that vendors provide addresses of all local branch offices and headquarters and the number and percentage of local residents such vendors employ, and directs the Mayor to include such information in the memorandum to Board pertaining to vendor being recommended for contract award.

http://intra/gia/matter.asp?matter=152271&file=true&yearFolder=Y2015

Resolution No. R-718-17, adopted July 6, 2017, Directs the Mayor to commence planning for re-procurement no later than 18 months PRIOR to the expiration of contracts and Lists of Prequalified Vendors for the purchase of goods and/or services; and directs the Mayor or their designee, on a quarterly basis to identify in writing to the Office of Commission Auditor those contracts and prequalified vendor lists that are set to expire no later than 18 months prior to expiration. http://intra/gia/matter.asp?matter=171632&file=true&yearFolder=Y2017

Implementing Order No. 3-38 sets forth the County's processes and procedures for the purchase of goods and services. The I.O. outlines: the roles and responsibilities of the Internal Services Department; the methods of purchasing goods and services; the authority to award and modify contracts; and the requirements for access contracts, emergency purchases, bid waivers, confirmation purchases and sole sources.

http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-38.pdf

CONTRIBUTORS

Phillip G. Edwards, Esq., Legislative Research Manager Isidoro R. Lopez, Esq., Research Analyst Victor van der Weerden, MSc., Associate Research Analyst

The Office of the Commission Auditor, Miami-Dade Board of County Commissioners

The Office of the Commission Auditor (OCA) was established in September 2002 by Ordinance 03-2 to provide support and professional analysis of the policy, service, budgetary and operational issues before the Miami-Dade Board of County Commissioners. The Commission Auditor's duties include reporting to the Board of County Commissioners on the fiscal operations of County departments, as well as whether the fiscal and legislative policy directions of the Commission are being efficiently and effectively implemented

These research notes, prepared in collaboration with the Miami Dade County departments as subject matter experts, is substantially less detailed in scope than an audit in accordance with the Generally Accepted Auditing Standards (GAAS). The OCA plans and performs the review to obtain sufficient, appropriate evidence to provide a reasonable basis for its findings and conclusions based on its objectives; accordingly, the OCA does not express an opinion on the data gathered by the subject matter expert(s).