



Independent Procurement Review Report

Why We Did This Review

In accordance with Atlanta City Charter Chapter 6, Section 2.603, our office is authorized to review all solicitations with an aggregate value of \$1,000,000 or greater, seeking approval by the Atlanta City Council, for file completeness, conflicts of interest, and other areas of perceived deficiency.

Solicitation#	1200105
Estimated Dollar Amount:	\$20,000,000
Type of Procurement:	Invitation to Bid
Contract Description:	South Deicing Complex Support Facilities
Requesting Department:	Department of Aviation
All Proponents:	Dunn Works, a Joint Venture Kiewit-Lewis-Anatek, a Joint Venture Tuner-Technique, a Joint Venture Manhattan/RFB, a Joint Venture
DOP Responsive Proponents:	Kiewit-Lewis-Anatek, a Joint Venture Tuner-Technique, a Joint Venture Manhattan/RFB, a Joint Venture
Recommended Awardee:	Manhattan/RFB, a Joint Venture

TABLE OF FINDINGS

Review Area	Risk/Criteria	Results	DOP Response
Evaluation Team	DOP procedures require evaluators to possess the necessary and appropriate experience needed to evaluate the proposals or offerors submitted to the city.	No findings identified	N/A
Solicitation	<ul style="list-style-type: none"> Bids shall only be evaluated on requirements and evaluation criteria outlined in the formal solicitation (DOP SOP 4.3.6.(E)(3)). Having selection criteria established in the solicitation can help prevent bid manipulation. Evaluation criteria that are too vague or subjective can allow for manipulation of the scores 	No findings identified	N/A
Advertisement/ Addenda	<ul style="list-style-type: none"> Changing the solicitation criteria to favor a particular proponent is a red flag of potential bid rigging (International Anti-Corruption Resource Center). Too many addenda could indicate unclear specifications or unclear scope of work, which could also favor a particular proponent. 	DOP issued four addenda for this solicitation.	No response needed
Submittal	The city code provides that the city shall select no less than three submittals solicited from an RFP that it deems as the most responsible and responsive; provided, however, that if three or fewer offerors respond, the requirement shall not apply (City Code Sec. 2-1189).	<p>The recommended awardee submitted a minority partner of another bidder as a subcontractor for this solicitation.</p> <p>According to the IACRC, the winning bidder hiring a losing bidder as a subcontractor for the same project may indicate collusive bidding practices.</p>	DOP Response Per OCC, A minority JV partner can also serve as sub-contractor for a separate bidder/proponent submitting on the same solicitation.

Review Area	Risk/Criteria	Results	DOP Response
<p>Responsive Review</p>	<ul style="list-style-type: none"> DOP procedures require findings to be recorded on a responsive checklist which identifies specific submittal requirements for the project and identifies a bidder's compliance with those required documents. Unclear or inconsistent responsiveness determinations could be a red flag of bid manipulation. 	<p>DOP deemed three of four bidders responsive. However, IPRO identified deficiencies with the following bidders' submittals:</p> <p>Bidder #1 Form 3 was not notarized, and the Notary's Commission was expired when the Assistant Secretary signed the Power of Attorney for the surety company.</p> <p>OCC deemed the recommended awardee responsive, however, the proponent submitted a subcontractor utilization plan and letter of intent to hire a minority partner of another bidder within this solicitation.</p> <p>To fulfill the solicitation requirements, the bidder also submitted a utility contractor license for a person affiliated with the minority partner of another proponent within this solicitation.</p> <p>Bidder #2 Majority and minority partners of the joint venture answered "No" to question 1 of Form 2; however, both companies hold current and past contracts with the Department of Aviation.</p> <p>OCC deemed the bidder non-responsive for failing to notarize the joint venture agreement. IPRO also found the bidder did not quantify the total amount of work the prime contractor would self-perform.</p>	<p>DOP Response Form 3, Bid Bond was executed by Manhattan Construction Company, the majority partner of Manhattan/RFB, JV which is a corporation. Corporations are not required to notarize Form 3.</p> <p>For the Power of Attorney, on August 1, 2018, the Surety appointed persons to serve as Attorney-in-Fact which required the signatures of both the Assistant Secretary and Vice President. The notary listed on the Power of Attorney whose commission expired on July 16, 2019 is to attest to the identity and signatures of both the Assistant Secretary and Vice President on August 1, 2018. The December 12, 2019 date on the Power of Attorney is to certify that the Attorney-in-Fact is authorized to execute Form 3 on behalf of the Surety.</p> <p>Per OCC, A minority JV partner can also serve as sub-contractor for a separate bidder/proponent submitting on the same solicitation.</p> <p>Per OCC, A minority JV partner can also serve as sub-contractor for a separate bidder/proponent submitting on the same solicitation.</p> <p>The form was revised in January 2020 to add clarity to this question in Form 2. This form adds greater clarity for the definition of an</p>

Review Area	Risk/Criteria	Results	DOP Response
			<p>offeror and joint venture member. The joint venture answered this question correctly.</p> <p>Per OCC, Once the bidder was deemed nonresponsive for failing to notarize the joint venture no further consideration/review was provided for additional documents.</p>
Conflict of Interest	The city's standards of conduct prohibit employees from having financial conflicts of interests. Contracts must be awarded and administered free from improper influence or the appearance of impropriety.	No findings identified	N/A
Evaluation	<ul style="list-style-type: none"> • DOP procedures require procurement staff to compile the evaluation scores, including those from risk management and contract compliance. • Public procurement practice states that any arithmetical errors should be corrected, and scores should be recorded in grids/matrices (NIGP). • According to the International Anti-Corruption Resource Center, bids that are too close together (less than 1%) or too far apart (more than 20%) could be indicators of collusive bidding. Not applicable for RFPs. 	The bid spread was 37%, which could be an indicator of collusive bidding. However, OCC deemed the lowest and second highest bidders non-responsive, and the user department recommended the second-to-lowest bidder for award.	No response needed
Cancellation	<ul style="list-style-type: none"> • The Government Accountability Office states that the use of standard language such as "in the best interest of the city" without a specific justification for cancellation could be a fraud indicator. • Transparency International states that effective record-keeping of decisions and reasons for cancellation promotes accountability and transparency. 	No findings identified	N/A
Award	A contract file should include all project items, to confirm that each phase of the procurement was facilitated appropriately and audit-ready (DOP SOP Sec. 3.18)	No findings identified	N/A