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September 24, 2009

**Reply To:**  
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**VIA E-MAIL: BBILLINGSLEY@BROWARD.ORG**  
**VIA U.S. MAIL**

Brenda Billingsley  
Director, Purchasing Division  
Broward County Board of County Commissioners  
115 S. Andrews Avenue, Room 212  
Ft. Lauderdale, FL 33301

**Re: RFP No.: 2007-0514-0-AV-01, Airport Information Management System (AIMS)**

Dear Ms. Billingsley:

As you may recall, the law firm of Becker & Poliakoff, P.A., represents Air-Transport IT Services, Inc., (“Air-IT”) the first-ranked bidder, in the above referenced Broward County procurement. We respectfully request that you forward this correspondence to members of the evaluation committee for the above referenced RFP, the Board of County Commissioners (“Board”), and include this in the backup of any agenda item related to this award.

We are writing to **respond** to the correspondence you received on September 1, 2009, (“Letter”) from Shutts & Bowen (“Shutts”) representing the second-ranked bidder, Infax, Inc. The Letter is an obvious and desperate attempt to hijack this process and delay the implementation of this project that the Broward County Aviation Department sorely needs.

The County and Air-It have now expended well over one year in negotiating the terms of the contract, at great time and expense, and, Infax’s disingenuous effort to delay the project should be summarily rejected. As set forth below, the particular allegations lodged against Air-IT are ludicrous, and challenges to Air-IT’s qualifications and responsiveness are long since time barred and are without any merit.

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The particular allegations are summarized and addressed as follows:

**1) Infax waived its right to challenge the requirement of the DAPP solution when the RFP was issued.**

In the Letter, Shutts writes, "FLL's consultant sought a 'DAPP' system, which we assert is proprietary to AirIT. ... the County's consultant incorrectly believed that 'DAPP' would be part of the emerging CUPPS standard." See Letter at Pages 1, 2. The RFP clearly states, "Broward County, Florida ("County") hereby solicits proposals from qualified firms interested in providing technical services, final design, and installation of an Airport Information Management System (AIMS). The AIMS shall be comprised of an ... Dynamic Assignment Passenger Processing (DAPP).... See RFP at Page 1. Infax had the opportunity to protest the requirement of DAPP at the time the RFP was released according to the Broward County Procurement Code ("Code") and did not do so. In your letter dated, May 22, 2008, to Shutts denying their protest, you wrote, "for this issue to be raised timely, it needed to be submitted prior to the opening of the RFP solicitations on August 14, 2007. See Billingsley Letter, May 22, 2008, at Page 2. Infax did not challenge the specification, and therefore has waived its right to raise this issue now. In retrospect, the problem for Infax is that they responded to the RFP with their own unproven DAPP solution. Infax is therefore precluded from protesting this issue. The Letter is simply intended to give them a second bite at the apple. This is clearly not permitted by the Procurement Code, and would set a bad precedent for future procurements.

**2) Infax previously protested the results of the Evaluation Committee.**

Upon learning the results of the Evaluation Committee's ranking, Infax filed a bid protest on March 3, 2008, alleging three issues related to specifications of the RFP and five issues related to the Evaluation Committee's deliberations and votes. In your letter dated, May 22, 2008 to Shutts, you denied the bid protest and informed Shutts of their clients' options to request a hearing before a Hearing Officer. See Billingsley Letter, May 22, 2008, at Page 4. Shutts' clients including Infax requested a hearing before a Hearing Officer, however prior to appearing before the Hearing Officer, they voluntarily withdrew their bid protest by letter on August 29, 2008; thus ending their protest under the Code. Infax, through its attorneys clearly understood the impact of withdrawing their bid protest and to allow Infax to reargue these points at this late date would be tantamount to a "backdoor" bid protest in blatant violation of the Code, and set a dangerous precedent for the future.

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**3) The RFP allows for CUPPS to be integrated into the airport.**

CUPPS stands for “Common Use Passenger Processing System” which is designed to be an overhaul of the CUTE (Common Use Terminal Equipment) system to result in a common, standardized system platform for agent-facing common-use implementations at airports.<sup>1</sup> CUPPS is essentially a software platform that will allow every airline to participate so that airport resources can be efficiently deployed and leveraged by the airlines in an airport. It should be noted that the RFP did not contemplate the use of CUPPS technology in the AIMS project, even though the industry (International Air Transport Association (IATA) – Recommended Practice 1797; Air Transport Association (ATA) – Recommended Practice 30.201; and Airports Council International (ACI) – Recommended Practice 500A07) unanimously “approved” the concept of CUPPS in the Fall of 2007. See “Common Use Passenger Processing Systems (CUPPS) – ACI-BIT Status Report: April 2009.”<sup>2</sup> Had the County been interested in CUPPS technology it could’ve delayed the RFP and/or issued an addendum requiring proposers to incorporate CUPPS into their submissions.

Pursuant to the specifications of the RFP published by the County, Air-IT proposed its EASE (extended airline system environment) system, which is a DAPP solution. There were six proposers that submitted responses which the evaluation committee found to be responsible and responsive. Air-IT’s first-ranked proposal, EASE has recently been updated to add full CUPPS functionality. This is not a change or deviation to Air-IT’s proposal as the update is ancillary to the EASE system and would have been covered under the terms of the agreement; more importantly the County’s cost has not increased. This update is akin to a Microsoft Windows update that is issued by the developer to enhance the product, nothing more, nothing less.

**4) Air-IT is a leader in airport technology.**

Shutts’ assertions that Air-IT is not versed in CUPPS technology and “dropped out” of the CUPPS pilot program in Sacramento is *completely false and untrue*. In reality, Air-IT temporarily suspended its involvement in the Sacramento CUPPS pilot program because of inadequate airline participation. In fact, only three airlines worldwide to date, have begun developing CUPPS compliant applications. Despite Shutts’ claims otherwise, CUPPS is still a very new technology that has not received widespread industry adoption. As of today, there is no CUPPS standard, and it will not be standardized until the release of version 1.1 CUPPS. Air-IT, however, has continued to be an active participant in the IATA (International Air Transport Association – the industry’s leading trade association) as well as the IATA CUPPS initiative and working group. As reflected by the ACI-BIT Status Report of April

<sup>1</sup> <http://www.cupps.aero/overview>

<sup>2</sup> <http://www.cupps.aero/documents>

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2009, Air-IT is listed as a “common use platform supplier,” while Infax is not. Id. Further, Air-IT is listed as a “CUPPS participant;” while Infax is not. Id.

Air-IT has recently reaffirmed itself as a leader in the industry when it successfully integrated CUPPS functionality into the EASE system and demonstrated it at Sacramento airport. As of today, the EASE system is the only DAPP solution that accommodates airline native environments, legacy Common Use and future CUPPS applications.

**5) Air-IT’s qualifications and financial position have not changed and have only gotten stronger.**

Since submitting its proposal to Broward County in response to the above referenced RFP, Air-IT has only strengthened its qualifications and financial position that led to the Evaluation Committee ranking them number one. The continued development of the EASE system and integration of CUPPS therein has strengthened its position atop the industry and Air-IT’s financial strength has increased accordingly. The fact that there were ten negotiating sessions is not indicative of anything other than the serious and comprehensive approach that the County and Air-IT took in drafting and negotiating the contract. Shutts claims to the contrary are in bad faith, and reflect a lack of regard for the County’s best interest.

The contract for the above referenced RFP is being presented for the Board’s approval on Tuesday, October 6, 2009. The County and Air-IT negotiated this contract in good faith and the agreement accurately reflects the first-ranked proposer’s submission as well as the County’s goals. **By proceeding with Air-IT, the County is actually receiving cutting edge technology that works in today’s and tomorrow’s airport environments.**

We trust that the above will be of benefit and assistance to the Board. Infax’s distortions and misrepresentations are a blatant, last ditch attempt to get another chance to pursue or sabotage this award, which should not be well taken by the County.

Should we be able to provide any further assistance, please do not hesitate to contact me.

Best regards,



Neil M. Schiller  
For the Firm

cc: John Hernandez – BCAD  
Glenn Miller, Esq. – Broward County Attorney’s Office  
Karen Walbridge – Broward County Purchasing