

October 2, 2009

**VIA E-MAIL**

Mr. Jeffrey Newton, County Attorney  
115 S. Andrews Avenue  
Fort Lauderdale, FL 33301

**Re: Airport Information Display, RFP No. 2007-0514-0-AV-01**

Dear Mr. Newton:

This firm represents Infax, Inc. ("Infax") which was part of a team that submitted a proposal in response to the above-referenced RFI that also included major industry players ARINC and Ascent Technology. Enclosed for your review, please find our firm's letter to Brenda Billingsley of September 3, 2009 and responses from counsel to the selected vendor, AirIT and the County's consultant, CSC at Exhibit 1. **These records demonstrate that AirIT is attempting to change the specifications of its bid and add an additional team member, in violation of the County's bid procedures and Florida law.**

As you may recall, the above-referenced procurement is for a "DAPP" system. In selecting "DAPP" the County made a political decision to favor AirIT, which is the only vendor designing "DAPP" systems. The remaining major competitors design "common use" or "CUPPS" systems. In drafting the RFP, County staff initially sought a "CUPPS" system, then, inexplicably changed the specification to "DAPP". See: Attached RFP draft altering the specification, at Exhibit 3. Although AirIT now tries to claim that "CUPPS" is just a small software update, this couldn't be farther from the truth.<sup>1</sup>

**Both at the time of the solicitation, and in a joint protest filed by all proposers following the recommended award, each and every one of the industry's major players submitted letters objecting to the project scope as being an illegal set-aside of a proprietary specification for AirIT.** See: Pre-submittal letters from Kinetics and Siemens, attached at Exhibit 4; Joint Protest by remaining proposers at Exhibit 5.

SITA, one of the world's largest and best known common use vendors was found non-responsive to the solicitation and was disqualified from participating. Another vendor, InterSystems USA, declined to even make a presentation. The remaining vendors were forced to engineer their own "DAPP" system, even though they considered it to be overly costly, inefficient and outside industry standards.

---

<sup>1</sup> AirIt's EASE platform is being re-branded as CUPPS, but offers no CUPPS functionality whatsoever. AirIT has merely teamed with IBS, an India-based company to stake a claim to CUPPS functionality. CUPPS is most certainly not akin to a Windows update, as alleged by AirIT. It is a full-fledged, brand-new XML-over-TCP sockets interface definition that spans 700+ pages of technical specifications to define how applications and platforms must communicate in order to achieve full application portability and interoperability. AirIT and IBS have never successfully completed an installation together with airline participation.

Ms. Brenda Billingsley  
October 2, 2009  
Page 2

Ironically, at the time of the award, the Infax Team, not AirIT, was recommended by the County's independent consultant as offering the best proposal, and Infax's proposal was at least \$1 million less expensive than AirIT's. Nevertheless, in a purely political vote, AirIT was recommended for award because it was the only vendor with "DAPP" experience. Of course, this is because AirIT is the only vendor that offers "DAPP" and not common use. Again, the specification was specifically edited so that the major vendors could not submit a Common Use "CUPPS" proposal.

As predicted by the all of the protesting entities, during the intervening two (2) years, CUPPS, not DAPP, has been adopted by every major industry trade group including IATA, ATA and ACI. The County's consultant, CSC, acknowledged in its own response that by next month CUPPS, not DAPP, will be the official international standard. Of course, no one bid a CUPPS solution, because vendors were explicitly forbidden to do so by the RFP specifications. **Meanwhile, if the County were to pursue a DAPP solution, its brand new, \$6 million system would not conform to industry-accepted standards. No industry trade organization has developed any standard that relates to DAPP, including ATA, ACI, and IATA.**

Since "DAPP" is sub-standard, AirIT is now trying to back-door CUPPS into its solution, in violation of the solicitation and its bid specifications. This is an illegal substitution and denies companies like ARINC, SITA, ULTRA, Siemens, and others a fair opportunity to bid for this important system.

Even worse, AirIT is not qualified to offer a CUPPS solution, having withdrawn from the CUPPS program. While AirIT claims it is still participating in CUPPS and has an active CUPPS program in Sacramento, this is untrue. AirIT is not an active CUPPS participant. When Sacramento demanded CUPPS, AirIT was forced to partner with IBS, an India-based firm participating in a CUPPS trial overseas. In order to offer CUPPS, AirIT will have to partner with IBS just like Infax partnered with ARINC and Talegentra to meet each of the specifications in its proposal. Allowing AirIT to substitute a third party contractor to perform work outside the bid specification is outrageous and subverts the competitive bidding process in violation of County Procurement Code and Florida law. If the County now desires a CUPPS compliant system, it must reject all bids for the AIMS / DAPP procurement and solicit new bids as it was urged to do for the past four years by virtually every company in this industry.

As such, we respectfully request that the County Attorney pull this item from the October 6, 2009 agenda to review the legality of the pending award. Additionally, we request that the proposed award be thrown out and that a CUPPS procurement be issued by the County for competitive bidding. Doing so is not only the legally correct path, but would result in a better specification and over \$1 million in savings to the County.

Sincerely,

SHUTTS & BOWEN LLP



George I. Platt, Esq.

Michael J. McAllister, Esq.

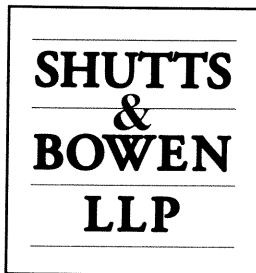
CC: Evan Lukic, County Auditor  
Brenda Billingsley, Purchasing Director

### **Exhibits**

1. Shutts & Bowen letter to Brenda Billingsley of September 3, 2009.
2. Response letters from CSC and Becker & Poliakoff.
3. E-Mail from Bonnie Greenberg indicating bid specification change from CUPPS to DAPP, including attached RFP redline.
4. Pre-Submittal Letters from Kinetics and Siemens declining participation due to proprietary specification.
5. Joint Protest Filed by Infax, ARINC, ULTRA,

## Exhibit 1

Shutts & Bowen Letter of September 3, 2009



September 1, 2009

Ms. Brenda Billingsley  
Broward County  
111 N Andrews Ave  
Fort Lauderdale, FL 33301

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

Dear Ms. Billingsley:

Our firm represents Infax, Inc. ("Infax") with respect to the above-referenced Request for Proposals, which was intended to be for a cutting edge Airport Information Management System ("AIMS"). AirIT was ranked first by the Evaluation Committee on February 25, 2008. It has taken over 19 months to get a contract to the Commission. Likewise, more than two years have elapsed since this procurement was first advertised (June 2007), and over three (3) years have elapsed since the RFP specifications were first conceived and drafted. Frankly, AIMS-related technology has evolved so dramatically during this time that we urge the County to consider whether it is in its best interest to continue with award of this contract to AirIT. For example:

- During the intervening three years, the International Air Transportation Association has finalized its new "CUPPS" standard for airport ticketing and passenger processing equipment. AirIT is not participating in Cupps. Thus, AirIT's system is not CUPPS compliant, and will not be compatible with the official international standards for AIMS projects.
- The qualifications of AirIT have changed in that they have dropped out of the CUPPS testing program and will not deliver an IATA-compliant solution.
- Technology standards have evolved so significantly that the "DAPP" solution proposed is out-of-date, inefficient and prohibitively expensive. For example, the "CUPPS" solution proposed by Infax would cost approximately \$1 million less.
- Additional cost savings could be achieved by revising the specifications because FLL has already installed many of the components required under the RFP.

We urge the County to ask BCAD staff and its consultant to determine whether the original procurement specifications are consistent with newer technology in the marketplace at major, modern airports. Likewise, the Selection Committee should be convened to consider whether AirIT is qualified to deliver an IATA compliant system, pursuant to Section 21.84(d), Selection Committee Procedures. Pursuant to the Cone of Silence exemptions contained at 1-266(e) of the County Code, we respectfully request that the Evaluation Committee, Kent George and the County Commission be copied on this correspondence (and your response) and that it be included in the Agenda Item being prepared by staff.

Sincerely,

SHUTTS & BOWEN LLP

A handwritten signature in black ink, appearing to read "George I. Platt", is written over the typed name.

George I. Platt



## MEMORANDUM

TO: George I. Platt ✓  
FROM: Michael J. McAllister *mw*  
DATE: September 1, 2009  
RE: RFP No. 2007-0514-0-AV-01, Airport Information Management System

---

More than two years have now elapsed since the above-referenced procurement was first advertised (June 2007), and more than three (3) years have elapsed since the specifications were first drafted. Given that this is a high-technology procurement in a rapidly evolving field, it is worth considering whether it is in the County's best interest to continue with this award to the first-ranked vendor, AirIT, as several critical aspects of this technology have changed. For the reasons articulated herein, the County should reconvene the Selection Committee (SC) to determine whether the original procurement specifications are consistent with newer technology now available in the marketplace as well as recent changes at FLL. The SC should also revisit whether AirIT's qualifications and financial stability have changed so substantially that the recommended award is no longer in the County's best interest. See: Administrative Code, Section 21.84(d), Selection Committee Procedures.

### **CUPPS – A New Global Standard Not Included in this RFP**

First, the proposed "DAPP" solution is not compliant with international standards and should be evaluated in that context. To that end, the County should consider whether it desires to have a *CUPPS* compliant system. As the airport surely knows, *CUPPS* is the emerging airport technology standard adopted by the International Air Transport Association ("IATA"), Airports Council International (ACI) and the Air Transport Association (ATA) as the standard for common use equipment in airports. The importance of this designation cannot be understated. IATA is the universally recognized global standards trade organization for airlines, airports and airport technology. For example, IATA assigns airport call signs (e.g. FLL, MIA, etc.) and its "CUTE" standard is the current interface used by most airports throughout the world for systems such as the one envisioned here. See: *Joint Recommended Practice Document*, attached.

At the time of the solicitation, it was understood that CUTE would be phased out and a new standard would be adapted by IATA, however, it was unclear what that standard would be. With this in mind, FLL's consultant sought a "DAPP" system, which we assert is proprietary to

AirIT. Various drafts of the RFP specifications oscillated between “CUPPS” and “DAPP”. Apparently, at the time specifications were drafted the County’s consultant incorrectly believed that “DAPP” would be part of the emerging CUPPS standard.

In short, *the County’s consultant was wrong*. Two years later CUPPS is now the official, approved standard for all airports throughout the world by IATA. As is explained in more detail below, global pilot programs are in process throughout the world by each of the major common use equipment companies (including the Infax Team’s partners). However, **AirIT is not participating in a CUPPS pilot and will not be CUPPS certified.** Tellingly, AirIT had initiated a CUPPS pilot in Sacramento, but later dropped out of the CUPPS initiative. Thus, FLL will not be CUPPS compliant if it proceeds with the intended award, *which will increase carrier costs and make the airport less desirable*.

### **AirIT Is Not Qualified to Deliver an Industry-Standard System**

In addition to considering the overall scope of this procurement, BCAD staff and the Evaluation Committee should review recent changes in AirIT’s qualifications. Central among these is the abrupt termination of its Sacramento test-program of its Extended Airline System Environment (“EASE”) and CUPPS certification effort. *See: Attached CUPPS Update Presentation from October 2008 (including Sacramento) and April 2009 (de-listing AirIT’s pilot)*. AirIT touted its EASE system and cited its work at Sacramento Airport to Broward County during its presentation and proposal.

This is a significant development because it will mean that AirIT is not part of the developing IATA CUPPS standard, which six months ago was adopted as the IATA and ACI standard for common use equipment. AirIT’s non-participation in CUPPS means higher costs and greater frustration for airport customers. In fact, in a 2006 presentation by AirIT touting its CUPPS-centric EASE initiative, AirIT noted the importance of the emerging CUPPS standard, stating: “Airlines are growing increasingly frustrated with the implementation of different versions of CUTE systems at different airports. It is very difficult and expensive to have to support multiple platforms and varying implementations.” *See: AirIT presentation, attached*. Yet, this is exactly the situation FLL will face if it proceeds with the current award to a vendor that is not participating in the IATA standardization pilots.

This about-face is telling because virtually all of AirIT’s marketing materials trumpet its IATA compliance. For example, AirIT’s marketing materials cite EASE as “An Early Example of the Developing IATA CUPPS Standard.” Likewise, AirIt’s website notes that its Local Departure Control Systems (LCDS), which is a component of this RLI, offers “fully integrated production of IATA standard boarding passes and baggage tags”. Additionally, AirIT’s Baggage Management System materials note that its “Baggage Service Messages, as defined by IATA, are supported in various versions and accepted from all airlines.” IATA compliance is clearly an important sales point for AirIT’s service, but Broward County is no longer assured that AirIT will be IATA compliant moving forward.

### **Infax and the Other Competitors are IATA CUPPS Partners**

By comparison, Infax’s team, and the other major proposers for this project including Ultra,

SITA and RESA are participating in the IATA CUPPS development, testing and pilot programs. While it may not have been certain that all players would adopt the CUPPS standard three to four years ago when this procurement started, CUPPS has now officially been designated as the new IATA and ACI Approved Common Use Passenger Processing System. This standard was adopted six months ago as part of IATA's Recommended Practice Directive No. 1797 – RP1797, which is attached for your reference. CUPPS trials are well underway in Las Vegas (ARINC), Dublin (Ultra), Orlando (SITA), Brussels (RESA) and Kendala, India (IBS).

### **Other Financial Considerations**

In light of the above, AirIT's qualifications changes hold the potential for an enormous financial impact to Broward County as it embarks upon a program that will be sub-standard for the industry and which will likely have a far shorter lifecycle due to industry changes. This *immediate obsolescence* is magnified by the fact that **AirIT is already nearly one million dollars more expensive than the second ranked proposer, the Infax Team.**

Accordingly, due to the extremely long incubation period for this RFP, the airport should be concerned that the technology proposed is out of date and the fact that the airport has installed many of the components for this project already under different contracts. For example, a major component of this project was video installations. However, over the past two years FLL has proceeded to replace its video displays in all terminals because they could not wait for this contract to let.

Finally, the County should consider whether AirIT is financially capable of performing the contract. This contract negotiation required more than ten meetings between negotiators and AirIT which calls into question AirIT's ability to perform the work as bid. Likewise, a major point of contention was a security bond, which was eliminated from consideration, but put back in following a records request by our firm for the indemnity provisions of the draft contract. It is our understanding that AirIT's decision to terminate its CUPPS program in Sacramento may have been related to its unwillingness or inability to fund the program.

### **Conclusion**

Given the stakes, the Selection Committee should be reconvened to consider changes to AirIT's qualifications and the emerging IATA standards before proceeding with an agenda item seeking final award of this contract. Such a review is required by the County's Administrative Code when a proposer's financial strength or qualifications have changed. See: Administrative Code, Section 21.84(d), Selection Committee Procedures. By comparison, an award to the second ranked proposer, the Infax Team, would ensure that the County receives a state-of-the-art, IATA and ACI certified system at a substantial discount. Infax has completed a significant amount of work at FLL, enjoys an outstanding relationship with airport staff, and is ready to commence work immediately.

## Attachments

1. CUPPS, Joint Recommended Practice Document (IATA, Air Transport Association and Airports Council International) Cover. Joint Reference Numbers, 1797 (IATA), 30.201 (ATA), 500A07 (Airports Council International).

Original Document: <http://www.iata.org/nr/rdonlyres/57b3bab5-bb76-4652-bb0c-9acd47b1111b/0/cuppsrpv0100i01010000.pdf>

2. October 26, 2008 CUPPS Update Presentation to AAAE / ACC Information for Airports Technology Conference (listing AirIT / Sacramento as a CUPPS pilot)(excerpt only).

Original Document: <http://events.aaae.org/sites/080906/assets/images/Lufthansa%20-%20CUPPS%20Update.pdf>

3. April 2009 ACI-BIT CUPPS Update (AirIT removed from CUPPS Participation Matrix)(excerpt only).

Original Document: [http://aci-na.org/static/entransit/belliotti\\_cupps.pdf](http://aci-na.org/static/entransit/belliotti_cupps.pdf)

4. AirIT 2005 Presentation citing AirIT's EASE system as "an early example of the developing CUPPS standard" at page 5 (excerpt only).

Original Document: [www.iaae.org/meetings/southampton/Mark%20Sapp%20Pres.ppt](http://www.iaae.org/meetings/southampton/Mark%20Sapp%20Pres.ppt)

5. AirIT marketing materials referencing the importance of IATA compliance. (excerpt only).

Original Document: <http://www.airit.com/passenger-bms.cfm>

6. June 2009 Go Kiosk Article - Citing Four Active Pilots; No AirIT CUPPS Pilot cited.

Original Document: <http://www.gokiosk.net/kiosk/2009/06/cupps-the-platform-of-the-future.html>

# Attachment 1



COMMON  
USE  
PASSENGER  
PROCESSING  
SYSTEMS

RECOMMENDED  
PRACTICE



**International Air Transport Association**

Recommended Practice 1797



**Air Transport Association**

Recommended Practice 30.201



**Airports Council International**

Recommended Practice 500A07



CUPPS Version: 01.00  
Document Issue: 01.01.0000  
Last Updated: 16MAY2008

\*\*\* FINAL \*\*\*

## Attachment 2

3<sup>RD</sup> ANNUAL AAAE/ACC  
INFORMATION TECHNOLOGY  
for **AIRPORTS**  
C O N F E R E N C E

OCTOBER  
26 - 28,  
2008

DOUBLETREE MISSION VALLEY >> SAN DIEGO, CA



# Who is Participating?

Supplier	Airport	LH	WS	CO	AA	IB	??	??
AirIT	SMF							
ARINC	LAS		X		X			
IBS	TRV						X	X
RESA	BRU	X				X		X
SITA	MCO	X	X					
Ultra	DUB			X		X		

## Attachment 3

# Common Use Passenger Processing Systems (CUPPS)

---



ACI-BIT Status Report: April 2009

# Current Participation Matrix

Supplier	Airport	LH	WS(SITA)	CO	AA	IB	IT	WS (ARINC)
ARINC	LAS		X	X	X			O
IBS	MAA						X	
RESA	BRU	X				X		
SITA	MCO	X	O	X	X			X
Ultra	DUB			X		X		
TravelSky	TBD							

Shutts & Bowen Notation: AirIT is no longer listed in the participation matrix.



## Attachment 4

# The Mandate for Change: A New & Improved Common Use Solution

IATA JPSC/24 PSC/26 - Agenda Item 12 - OCT2004 (submitted by Delta Air Lines)

**"Airlines are growing increasingly frustrated with the implementation of different versions of CUTE systems at different airports. It is very difficult and expensive to have to support multiple platforms and varying implementations.**

"From a business standpoint, many airports are deploying CUTE systems and the 'CLUB' concept put forth in IATA RP1797 is not applicable insofar as management of the system is concerned.

"Moreover, the technical landscape against which CUTE is developed/deployed, has changed significantly. From the core operating system to peripheral devices that are available for airline use, the system, as envisioned in IATA RP1797, does not reflect today's circumstances.

"IATA RP1797 is outdated and needs to be rewritten. Following on to the success of the Common Use Self Service (CUSS) kiosk standard-setting process, shepherded so ably by IATA, a review of RP 1797 should be handled in much the same manner. In fact, it would seem that there may be some level of cross-over between the two standards. The participants should be generally the same set of interested parties. We respectfully suggest that this matter be referred to the CUSS group (or that another, similar group be instituted)."



## An Early Example of the Developing IATA CUPPS Standard: AirtIT's Extended Airline System Environment (EASE™)

- Airlines operate in their own 'Universe' (Operating System, Environment & Applications)
- Nothing operates on the CUPPS workstation except the 'Airline Universe'
- Supports any peripherals the airline and airport select
- System security; based on secure VLAN switching or dedicated VLANs
- Standard commercial-off-the-shelf (COTS) components
- No vendor certification required
- No specialized airline training needed
- Airlines can upgrade their 'Universe' on their own
- Changes from one airline will not impact any other airline
- Accommodates exclusive, preferential and shared usage
- Availability  $\geq 99.8\%$
- Local Departure Control System (LDCS) provided as an airline host-systems back up and for charter carriers without a DCS
- Fully compliant with airline needs
- Low cost of deployment
- Low cost of operation, maintenance and upgrade



## Attachment 5

[SERVICES](#) [SUPPORT](#) [CLIENTS](#) [PARTNERS](#) [ABOUT](#) [CONTACT](#) [CAREERS](#)[PROPworks® Support](#)[Online Meeting Center](#)[NEWS](#)[PRESS](#)[ARTICLES](#)[BUSINESS SYSTEMS](#)[OPERATIONAL SYSTEMS](#)

## PASSENGER PROCESSING SYSTEMS

[return to main product category page](#)

The Baggage Management System is the state-of-the-art solution for optimal and trouble-free operation of baggage handling systems.

**Baggage Service Messages, as defined by IATA, are supported in various versions and accepted from all airlines.**

**BMS** determines and controls the path of every bag from the induction to the make-up racetracks, thereby ensuring the optimal use of system resources.

**BMS** allows for detailed planning of all flights for the following days, based upon current data retrieved on-line from the [airport operational database \(AODB\)](#). Easy operation by means of Gantt charts is supported by constraint verification and conflict warnings.

Comprehensive baggage tracking is absolutely imperative for every modern baggage handling system. Wireless communication and the inclusion of boarding data are but a few of the options **BMS** offers.

[more information](#)

AirIT is a wholly-owned subsidiary of Fraport - Frankfurt Airport Services Worldwide

Copyright 2008 Air-Transport IT Services, Inc. All rights reserved.





SERVICES SUPPORT CLIENTS PARTNERS ABOUT CONTACT CAREERS

PROPworks® Support

Online Meeting Center

NEWS PRESS ARTICLES

BUSINESS SYSTEMS

OPERATIONAL SYSTEMS

## PASSENGER PROCESSING SYSTEMS



< return to main product category page

Local departure control systems are a necessary element in today's airport passenger processing strategy. The advent of low-cost start up airlines and regularly scheduled charters mandates the need for an efficient cost effective local departure control system strategy.

LDCS by AirIT is a straight-forward, feature rich solution that allows airline operations without proprietary departure control systems to deliver first-rate passenger and baggage handling by alleviating the need to manually process passengers and baggage.

### LDCS features include:

- ❖ Common-use passenger and baggage processing for airlines and charter operators;
- ❖ Fully integrated production of IATA standard boarding passes and baggage tags;
- ❖ Simple import of passenger data from a variety of messaging and data formats;
- ❖ Fully customizable aircraft seat maps to accommodate any aircraft and configuration;
- ❖ Complete required APIS functionality and integration;
- ❖ Available as a standalone application or as an integrated module of the EASE common use passenger processing system.

### Uncompromising Value and Performance:

LDCS by AirIT delivers the most cost effective local departure control system in the industry. Whether paired with our EASE common use solution, or deployed as a standalone application, LDCS by AirIT provides valuable performance functionality to an airport's passenger processing strategy.

For more information, [click here](#)

AirIT is a wholly-owned subsidiary of Fraport - Frankfurt Airport Services Worldwide



Copyright 2008 Air-Transport IT Services, Inc. All rights reserved.

## Attachment 6

# Go Kiosk by the Kiosk Industry Group

Kiosk and kiosks for self service in retail, financial, healthcare and more.

[Sign In](#)

[Home](#)

[Blog](#)

[About Go Kiosk](#)

[Contact Us](#)

[Resources](#)

[Search](#)

## CUPPS: The Platform of the Future (Airline Kiosk)

By [Administrator](#) on June 26, 2009 7:04 PM

CUPPS has been architected as the platform of the future, able to accommodate many things even beyond the agent-facing applications that it will initially address. The biggest benefit will be that one air carrier application will be able to run anywhere on any CUPPS providers platform.

While the technical trials are ongoing, the compliance trial parameters are being defined and the technical specification updated with lessons learned. Errors and omissions are being fixed so that the time required to execute the specification update segment can be minimized.

There are currently four active trials in progress - Las Vegas (ARINC), Orlando (SITA), Dublin (Ultra) and Brussels (RESA). "While the actual execution of the trials has changed over time due to the installation and site-specific needs, the overall progress is proceeding as planned," said Samuel Ingalls, Assistant Director of Aviation, Information Systems, Las Vegas McCarran International Airport, who is also Chair of the CUPPS Leadership Team. He continued: "Our original goal was to have the technical trials completed by April 15, 2009, but we learned through the pilot process that the critical milestone in the schedule is the publication of the Technical Specification. Each of the four trials is progressing with different tasks, in different orders, based on the participants' views and needs, and therefore they are completing the trial milestones in different orders. This flexibility has allowed us to learn more in a quicker manner, as well as giving everyone the freedom to complete their tasks in a manner that is comfortable for them."

Once the technical trials are completed, the applications and platforms will be compliance tested and then certified to the specification. The specification will be updated then published by IATA.

The technical trials are scheduled to be complete on 15 July; the certification trials are scheduled to be complete on 8 July for platforms and 15 July for applications. The technical specification is scheduled for completion by 15 September.

Catherine Mayer, SITA's Vice-President for Airport Services, explained that the pilot is critical to ensure that the technical standard works as expected, especially the interoperability of CUPPS applications among the different platform vendors. "The intent is to have vendors test their platform with at least two airline applications and for these same airlines to test their new CUPPS application on at least two vendor's platforms," she said. "If there are technical issues or discrepancies, the Technical Committee can update the technical specification before its final release, again ensuring success and following a logical practice that is new for aviation industry Recommended Practices. This is the first time that the industry has ever ensured such testing and recommended practice development; it is a great showing of the benefits of industry collaboration."



SITA began testing at Orlando in January, with WestJet passengers checked-in and boarded using the CUPPS technology. When testing is fully completed, SITA's AirportConnect Open platform will be considered as CUPPS compliant prior to a general product launch later in the year.

Lufthansa is participating in the pilot trials with SITA at Orlando and RESA at Brussels. "We have been conducting thorough testing of our CUPPS application (CLIP - CUPPS LH Integration Platform) and the platform suppliers' platforms we are doing pilot trials with," said Thomas Jeske, senior manager - IT infrastructure, Lufthansa. "It is of no surprise that while for the first time these new platforms and the LH middleware get integrated an array of issues arise that even a very thorough Technical Specification could not foresee. So we have had several test runs (integration tests) in our labs both with SITA and RESA. We have reached a stage where we feel our code is stable enough to provide it to SITA and RESA to do their own testing/integration testing in their labs."

ARINC's CUPPS platform went live at Las Vegas McCarran in January. ARINC worked with the international IATA/ATA/ACI CUPPS team to develop the CUPPS Technical Specification published in 2008. The company fast-tracked its deployment of the vMUSE CUPPS platform installed for the CUPPS Pilot Project at Las Vegas McCarran. John Belcher, ARINC Chairman & CEO, said: "This is a true breakthrough for the aviation industry. CUPPS represents a major investment by ARINC that will give the industry tremendous savings. ARINC's vMUSE platform is now being enhanced to simultaneously run legacy CUTE applications, newer CUPPS applications, and airlines' native applications - a capability we launched in Singapore in November 2007."

### RECENT ENTRIES

#### EMV Level 2 - Just what does it mean?

The purpose and goal of the EMV standard is to specify interoperability between EMV compliant IC cards and EMV compliant...

By Administrator | Comments (0)

#### CUPPS: The Platform of the Future (Airline Kiosk)

CUPPS has been architected as the platform of the future, able to accommodate many things even beyond the agent-facing applications...

By Administrator | Comments (0)

#### EMV takes aim at U.S.

Nice article on SecureIDnews covering EMV. by Andy Williams, Associate Editor, Avisian Publications. Like a massive tidal wave, EMV continues to roll...

By Administrator | Comments (0)

#### Tokenization and Enterprise Security

Nice article on tokenization which also highlights lack of formal standards for tokenization at this time. Credit Card Tokenization: Put All...

By Administrator | Comments (0)

#### Wal-Mart's Kiosk Trial Raises Serious PCI, Data Ownership Issues

Wal-Mart this month became the latest major retailer to experiment with self-service kiosks, selling space in 77 stores for units...

By Administrator | Comments (0)

#### Proximity (NFC) Mobile Payment Technology - Security Whitepaper

The opportunities offered by the advent of proximity mobile payments are clear; differentiated payment services, increased transaction volumes, faster transactions,...

By Administrator | Comments (0)

#### Look Beyond Hospitality Touch Screen Solutions

Whether you realize it or not, touch technology quickly is becoming the intuitive input delivery method of choice. Look no...

By Administrator | Comments (0)

## Exhibit 2

### Becker & Poliakoff and CSC Consulting Reply Letters



**Emerald Lake Corporate Park**  
**3111 Stirling Road**  
**Fort Lauderdale, Florida 33312-6525**  
**Phone: (954) 987-7550 Fax: (954) 985-4176**

**Mailing Address:**  
**P.O. Box 9057**  
**Ft. Lauderdale, FL 33310-9057**

ADMINISTRATIVE OFFICE  
3111 STIRLING ROAD  
FORT LAUDERDALE, FL 33312  
954.987.7550

September 24, 2009

**Reply To:**  
**Neil M. Schiller, Esq.**  
**Direct dial: (954) 985-4117**  
**NSchiller@becker-poliakoff.com**

WWW.BECKER-POLIAKOFF.COM  
BP@BECKER-POLIAKOFF.COM

**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)**

- FLORIDA OFFICES
- BOCA RATON
- FORT MYERS
- FORT WALTON BEACH
- HOLLYWOOD
- HOMESTEAD
- MELBOURNE
- MIAMI
- NAPLES
- ORLANDO
- PORT ST. LUCIE
- SARASOTA
- TALLAHASSEE
- TAMPA BAY
- WEST PALM BEACH

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.

- U.S. & GLOBAL OFFICES
- NASSAU
- NEW YORK CITY
- PARIS
- PRAGUE
- TEL AVIV

\* by appointment only

Brenda Billingsley  
Director, Purchasing Division  
September 24, 2009  
Page 2

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.

Brenda Billingsley  
Director, Purchasing Division  
September 24, 2009  
Page 3

**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>

Brenda Billingsley  
Director, Purchasing Division  
September 24, 2009  
Page 4

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.**

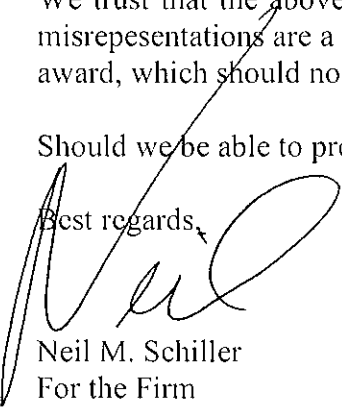
Since submitting its proposal to Broward County in response to the above referenced RFP, Air-IT has only strengthened its qualifications and financial position that led to the Evaluation Committee ranking them number one. The continued development of the EASE system and integration of CUPPS therein has 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



**CONVERGENT STRATEGIES CONSULTING, INC.**  
INFORMATION TECHNOLOGY AND COMMUNICATIONS

WWW.CSCINC.COM

September 24, 2009

Ms. Julie Howlett  
Information Systems Director, Aviation Department  
Broward County Aviation Department  
Fort Lauderdale-Hollywood International Airport  
100 Aviation Boulevard  
Fort Lauderdale, FL 33315

Dear Ms. Howlett:

Convergent Strategies Consulting, Inc. (CSC) is in receipt of the letter dated September 1, 2009, from Shutts & Bowen, LLP to Ms. Brenda Billingsley regarding RFP No. 2007-0514-0-AV-01 Airport Information Management System. We have reviewed the letter and believe it provides no basis for altering or delaying the procurement process. CSC addresses each issue point-by-point below:

1. *"During the intervening three years, the International Air Transportation Association (IATA) has finalized its new "CUPPS" standard for airport ticketing and passenger processing equipment. AirIT is not participating in CUPPS. Thus, AirIT's system is not CUPPS compliant, and will not be compatible with the official international standards for AIMS projects."*

**CSC Response:** This is misleading as the CUPPS "standard", which is actually a Recommended Practice, has not been finalized. As of September 21, 2009, the draft version of the IATA Recommended Practice (RP) has been ratified, however, the final version will not be complete until all CUPPS pilot testing has taken place and modifications as a result of pilot testing are incorporated into the RP. The committee now believes this guideline will be released in November 2009, at the earliest. CSC is a participating member of the IATA CUPPS working group and was present at the annual Check-In conference last week during the IATA working session in Las Vegas, NV. CSC is highly aware of all CUPPS initiative issues as we are actively involved in the development of the new RP. As such, CSC offers this point of clarification to their letter: the Recommended Practice 1797 for CUPPS is not a *standard* per say but rather provides recommendations for the implementation of Common Use Passenger Processing Systems (CUPPS). Since this is a recommendation and not a requirement, it is feasible that some airlines will not implement CUPPS compliant passenger processing applications. In addition, those airlines that do implement CUPPS compliant applications will do so as their planning and budgets allow, which could take years. Currently, there are only five (5) airlines participating in the pilot (American Airlines, Continental Airlines, Luftsansa Airlines, Iberia Airlines, and WestJet). This is due to the fact that the airlines are typically budget constrained. As a result, the DAPP specifications included in the AIMS RFP were designed to address airlines that have CUPPS compliant applications as well as those that do not. The selected vendor is currently a part of the IATA pilot testing and therefore, is actively involved in developing the new Recommended Practice, whatever the final version turns out to be. From BCAD's perspective, the selected vendor has agreed to meet the new RP, and when the RP is finalized the selected vendor is positioned as well as any other vendor to meet the recommendations provided.

2. *"The qualifications of AirIT have changed in that they have dropped out of the CUPPS testing program and will not deliver an IATA compliant solution."*

401 EAST LAS OLAS BLVD	SUITE 1400
FORT LAUDERDALE,	FL 33301
P. (954)	332-2403
F. (954)	332-2301



**CONVERGENT STRATEGIES CONSULTING, INC.**  
INFORMATION TECHNOLOGY AND COMMUNICATIONS

WWW.CSCINC.COM

**CSC Response:** While AirIT did remove themselves from pilot testing earlier in 2009, their EASE platform is currently being pilot tested at the Sacramento International Airport, as a part of the IATA initiative. This was confirmed at last week's Check-In conference. Regardless of AirIT's reasons for temporarily suspending their involvement, their current participation now appears solidified. This action is not unique, as a similar suspension of participation also occurred earlier this year when Luftsansa Airlines backed out of the piloting process then rejoined again.

3. *"Technology standards have evolved so significantly that the "DAPP" solution proposed is out-of-date, inefficient, and prohibitively expensive. For example, the "CUPPS" solution proposed by Infax would cost approximately \$1 million less."*

**CSC Response:** These statements are general and without fact. The DAPP specification was developed to meet technology standards that have evolved, and will continue to do so at a very fast pace, this was expected and addressed in the RFP specifications.

The AIMS RFP specified the DAPP component to provide a flexible solution for the Fort Lauderdale-Hollywood International Airport supporting all airlines' current and future technology requirements; regardless of whether or not an airline has a CUPPS compliant application. The AIMS RFP also describes the requirements for all supplied AIMS equipment to be the "contemporary technical and operational equivalent" of the equipment specified in the RFP. As an example, if a dual-core processor was specified in 2007, a quad-core processor would be the technical equivalent in 2009. Based on the technical evaluations performed as part of the RFP process, AirIT has met these technical requirements. AirIT has announced that the latest version of the EASE platform being proposed to BCAD will support: 1) older legacy common use (the initial version of RP 1797, aka CUTE), 2) individual airline proprietary applications, and 3) will be compliant with the new CUPPS Recommended Practice.

Their letter infers that the DAPP component has a \$1 million dollar difference between the AirIT and Infax proposals; however, the DAPP or common use passenger processing aspect of the AIMS RFP is only one component that comprises approximately 15-20 percent of the overall project costs. The other 80-85 percent of the AIMS components may be attributed to this difference. While cost savings may now be realized with other proposed solutions, these savings cannot be attributed solely to the common use or DAPP component.

4. *"Additional cost savings could be achieved by revising the specifications because FLL has already installed many of the components required under the RFP."*

**CSC Response:** The RFP and subsequent statement of work developed for the AIMS project has accounted for work to be performed outside of the AIMS project. The majority of the work being referred to is associated with display devices throughout the campus. The RFP anticipated this by requiring the re-use of all existing display devices, with the exception of new devices required in Terminal 4. Therefore, the replacement of display devices throughout the campus was accommodated and will have minimal impact on the costs associated with the AIMS implementation.

In conclusion, CSC believes the issues brought up by the September 1, 2009, letter provide no basis for altering the procurement process. The selected vendor has agreed to all technical and functional

401 EAST LAS OLAS BLVD | SUITE 1400  
FORT LAUDERDALE, FL 33301  
P. (954) 332-2403  
F. (954) 332-2301



**CONVERGENT STRATEGIES CONSULTING, INC.**  
INFORMATION TECHNOLOGY AND COMMUNICATIONS

[WWW.CSCINC.COM](http://WWW.CSCINC.COM)

requirements, and appears to have one of the most advanced systems available in operation. The selected vendor's active involvement in IATA ensures the best possible option for compatibility with the new RP, when it is finalized. As a working member of the IATA CUPPS committee, CSC believes the guideline eventually developed by IATA will continue to evolve even after finalization, and any system deployed will need the ability to adapt to these changes. This is what your AIMS solution, containing DAPP, will provide for the citizens of Broward County.

If you have any questions regarding these issues, or would like any further information please feel free to contact me at 610.563.9521.

Sincerely,

James A. Willis  
Project Manager

401 EAST LAS OLAS BLVD | SUITE 1400  
FORT LAUDERDALE, FL 33301  
P. (954) 332-2403  
F. (954) 332-2301

# Exhibit 3

## Staff E-Mail and RFP Redline Changing Scope to "DAPP"

**Greenberg, Bonnie**

---

**From:** Jim Willis [jwillis@cscinc.com]  
**Sent:** Thursday, May 04, 2006 2:55 PM  
**To:** Greenberg, Bonnie  
**Cc:** Crewson, Walker  
**Subject:** AIMS RFP  
**Attachments:** FLL - AIMS RFP Combined 5-2-2006.doc; AIMS RFP Attachment A 021006.doc

Bonnie,

Here is the latest and greatest RFP with the CUPPS name changed to DAPP, Dynamically Assigned Passenger Processing.

I also attached the Attachment A document (the latest version that I have). I was not sure if you made any further modifications to this document. If you haven't, I will migrate the name change to this as well. If you have, please send the latest version and I will work from that one.

Thanks,

Jim Willis

**Convergent Strategies Consulting, Inc.**  
503 Schoolhouse Road, Suite 200  
Kennett Square, PA 19348  
610.925.5701 x225  
610.925.5704 (fax)  
[www.cscinc.com](http://www.cscinc.com)

3/7/2008

### 2.4.10 EVIDS Hardware Requirements

- A. In addition to the requirements specified herein, the EVIDS shall meet the requirements of Section 2.9, Hardware Requirements.
- B. Refer to drawings for hardware types and quantities.
- C. In addition to the components depicted on the drawings, provide twenty-nine (29) workstations for airlines to utilize as their input workstations. The location of these workstations shall be coordinated with the OWNER.

## 2.5 DYNAMIC ASSIGNMENT PASSENGER PROCESSING (DAPP)

### 2.5.1 System Requirements

- A. The design philosophy behind Terminal 4 is to establish a flexible environment allowing any mix of dedicated and/or shared use peripherals. This environment must be sufficiently flexible and scalable to accommodate changes in the airport's business plan over time. To facilitate shared use peripheral deployment at some point, a DAPP solution shall be provided as part of the AIMS base bid.
- B. The DAPP shall be a "network-centric" solution allowing each airline to access their applications via a native host connection. This connection is facilitated using a shared infrastructure with dedicated virtual network connections for each airline tenant. The dedicated virtual network connections along with airline provided software that is accessible at the local DAPP workstation shall allow an airline to access their native host interface. The virtual network connections, while dedicated for each airline, shall be dynamic such that any port on the network shall be able to utilize any of the virtual network connections associated with the DAPP. The system shall be configured to assign the appropriate virtual network connection upon notification from the Resource Management System that a specific port (associated with a resource) has been assigned to a specific airline.
- C. The DAPP shall be integrated with the RMS and other necessary components to support the following functionality:
  - 1. Upon notification from the RMS that a resource has been assigned to a specific tenant, the system shall automatically boot the associated workstation(s) into the appropriate virtual network associated with the specific tenant. As such, the personnel utilizing the workstation shall only need to log into their native application(s) (i.e. a log in to the DAPP application shall not be required to access a tenant's native application(s)). Prior to booting into the appropriate virtual network, the system shall confirm that the resource is not currently in use.

Deleted: COMMON  
Deleted: USE  
Deleted: SYSTEM  
Deleted: CUPPS

Deleted: CUPPS

Deleted: CUPPS

Deleted: and

Deleted: local area

Deleted: (VLAN)

Deleted: VLAN

Deleted: an assigned hard drive partition on each CUPPS workstation

Deleted: using a CUPPS workstation

Deleted: VLAN

Deleted: VLANS

Deleted: CUPPS

Deleted: VLAN

Deleted: ,

Deleted: CUPPS

Deleted: VLAN

Deleted: CUPPS

Deleted: VLAN

- 2. Upon notification from the RMS that a resource has been assigned to a specific tenant, the system shall assign all necessary peripheral components to support the workstation function. This shall include, but not be limited to, all printers (bag tag, boarding pass, document), any bar code readers associated with the workstation, and any telephone equipment.
- 3. The workstations shall run the native tenant applications.
- D. The DAPP shall provide 'transparent' access to each airline's native host application via the network-centric solution. The DAPP solution shall not require an on-going certification process once final system acceptance is complete. Individual airline upgrades and modifications to point of sale and other operational software shall not require any certification (or recertification) to utilize the DAPP.
- E. The DAPP shall provide 2D Bar Code Printing for Boarding Passes. Traditional IATA ATB magnetic swipe boarding coupons are not required, unless specifically requested by airline tenants during the implementation process.
- F. The DAPP shall provide use of each airline's native system from all locations within the Terminal 4. The DAPP shall provide any agent the ability to access their own network and applications from any RMS-assigned DAPP workstation via authorized airline-host login. The DAPP shall allow each airline to run its own native point-of-sale application in its own operating environment. At the DAPP workstation, the screen and keyboard interface shall be no different than a direct host connection. Any applications which are available on the host system shall also be accessible through the DAPP. This system shall provide each airline the ability to perform ticketing, check-in, local boarding, passenger matching, etc. using their system software without modifications to the host system.
- G. The DAPP shall fully support individual airline requirements for workstation and peripheral addressing. This shall include the ability for airlines to dynamically assign workstation addresses on an ad-hoc basis from a pool of addresses, eliminating the need to have dedicated workstation addresses for every device associated with DAPP. Individual airline software licensing issues must also be addressed by the CONTRACTOR in a manner that is acceptable to all stakeholders. This topic shall be included in the design workshops that are required as part of the implementation process.
- H. The system shall provide connection for the DAPP workstations to each participating airline's host computer (e.g., System One, Sabre, etc.) via an airline-provided interface (e.g., gateway, router, etc.). This shall allow for the required airline applications and operating systems to be loaded at the

**Deleted:** and shall not access the host through terminal emulation

**Deleted:** CUPPS

**Deleted:** CUPPS

**Deleted:** CUPPS

**Deleted:** CUPPS

**Deleted:** CUPPS

**Deleted:** CUPPS

**Deleted:** CUPPS

**Deleted:** CUPPS

**Deleted:** CUPPS

**Deleted:** CUPPS

**Formatted:** Not Highlight

**Deleted:** CUPPS

**Formatted:** Not Highlight

**Deleted:** CUPPS

**Formatted:** Not Highlight

**Formatted:** Not Highlight

**Deleted:** CUPPS

workstation on an airline by airline basis. Access to the airline interface shall be over the assigned virtual network. The location of airline specific software required to utilize a DAPP workstation shall be stored either on a local partitioned hard drive, a centralized location such as a boot server, or a CONTRACTOR determined location. The CONTRACTOR shall describe the proposed method of providing airline specific functionality in detail with the initial proposal. It is the responsibility of the AIMS CONTRACTOR to perform the necessary airline coordination to ensure the system supports the individual requirements of each identified airline.

Deleted: VLAN

Deleted: CUPPS

I. An unassigned DAPP station shall provide a generic login screen that allows access to any DAPP applications that may be required for system maintenance or other functions.

Deleted: CUPPS

Deleted: CUPPS

J. The DAPP workstation shall use the common system hardware with the individual airline's native applications. The printers can either be loaded with common printing stock, or each airline can load their own stock when utilizing a position. It is the responsibility of the AIMS CONTRACTOR to perform the necessary coordination with airline representatives to ensure each airline's peripheral requirements are met by the system.

Deleted: CUPPS

K. The DAPP shall utilize an open architecture. To the extent possible, hardware components of the DAPP shall be standard "off-the-shelf" computer components.

Deleted: CUPPS

Deleted: CUPPS

L. The system shall provide access to the airline host computer system applications. From any DAPP workstation any authorized user shall be able to access host applications. Typical host applications which the system shall access include (but are not limited to):

Deleted: CUPPS

1. Departure Control
2. Reservations
3. Ticketing
4. Check in
5. Local Boarding Application
6. Baggage Tracing
7. Flight Operations Control
8. Message Switching
9. Information Systems such as FIDS
10. Aircraft Maintenance Systems
11. Cargo Systems

12. Baggage Sorting/Reconciliation System

13. E-mail.

M. The DAPP shall support and be interoperable with the addition of non-hosted Airlines and OWNER applications operating in a client/server (peer to peer) or web-based environment.

Deleted: CUPPS

N. Any DAPP workstation shall be able to be assigned to any airline and access any airline host system.

Deleted: CUPPS

O. Workstations shall be mutually independent of each other (e.g., two DAPP workstations at the same gate counter can access two different hosts simultaneously).

Deleted: CUPPS

P. Workstations shall be able to direct output to a peripheral device that is physically connected to another workstation on the same virtual network. As such, the ability to print boarding passes and bag tags from any workstation to any other workstation shall be provided.

Deleted: VLAN

Q. Each airline's host and operating environment shall be supported by the CONTRACTOR's system.

R. CONTRACTOR shall clearly define in the initial proposal the proposed method for accommodating the various printing and other peripheral requirements of the individual airlines operating at FLL.

Deleted: state the time required to download a Parametric Table (PECTAB) to each piece of peripheral equipment. Differentiate between a "standard" format containing text only, and text combined with a graphic such as an airline logo.

**2.5.2 Airline Requirements**

A. The airlines listed below shall be serviced by the DAPP. It is the CONTRACTOR's responsibility to verify/determine airline host and to determine host application and peripheral interface requirements.

Deleted: CUPPS

B. Cost for integrating each airline into the DAPP shall be listed as a line item. Additionally, per airline cost shall be provided for adding additional airlines to the DAPP.

Deleted: CUPPS

Deleted: CUPPS

C. Airlines to be serviced include, but are not limited to:

- 1. Air Canada
- 2. Air Jamaica
- 3. Air Sunshine (commuter)
- 4. Air Transat
- 5. Air Tran
- 6. America West
- 7. American
- 8. American Eagle
- 9. Avianca

Formatted: Bullets and Numbering

- 10. Bahamas Air
- 11. Cayman Airways
- 12. CanJet
- 13. Chalks Ocean Airways (commuter)
- 14. Comair
- 15. Continental
- 16. Continental Connection (Gulfstream)
- 17. Delta/Delta Express
- 18. Florida Coastal (commuter)
- 19. Frontier
- 20. Island Express (commuter)
- 21. JetBlue
- 22. Lynx Air International (commuter)
- 23. Midwest (Delta)
- 24. Northwest
- 25. Skyservice
- 26. Southwest
- 27. Spirit
- 28. Ted
- 29. Thomsonfly
- 30. Travelspan
- 31. United
- 32. USA3000
- 33. US Airways
- 34. Vintage Props and Jets
- 35. Westjet

**Deleted:** <#>Air Jamaica¶  
 <#>Air Sunshine¶  
 <#>Air Transat¶  
 <#>AirTran¶  
 <#>America West¶  
 <#>American¶  
 <#>American Eagle¶  
 <#>American Trans Air¶  
 <#>Bahamas Air¶  
 <#>Canada 3000¶  
 <#>Cape Air¶  
 <#>Casino AirlinK¶  
 <#>Chalks Ocean Airways¶  
 <#>Comair¶  
 <#>Condor¶  
 <#>Continental¶  
 <#>Delta/Delta Express¶  
 <#>Island Express¶  
 <#>JetBlue¶  
 <#>Laker Airways¶  
 <#>Lynx Air International¶  
 <#>MetroJet¶  
 <#>Miami Air¶  
 <#>Midway¶  
 <#>Northwest¶  
 <#>Royal¶  
 <#>South African Airways¶  
 <#>Southwest¶  
 <#>Spirit¶  
 <#>United¶  
 <#>US Airways¶

**2.5.3 DAPP Performance Requirements**

A. In addition to the performance requirements listed in Section 2.10, the DAPP shall conform to the following:

1. DAPP Latency: The time from when a DAPP position (and any associated CUSS position) is assigned to an airline via the RMS interface and the position is fully operational for passenger processing shall not be more than three (3) minutes.
2. General Use CUSS: For a general use CUSS kiosk, the time from when an airline is selected for self-service check-in and the selected self-service check-in application is fully operational for use shall not be more than ten (10) seconds. A "loading" or other similar screen shall be displayed within 1.0 seconds after the airline is selected.

**Deleted: CUPPS**  
**Deleted: CUPPS**  
**Deleted: CUPPS**  
**Deleted: CUPPS**  
**Deleted: five (5)**  
**Deleted: 5**  
**Deleted: 0.**  
**Deleted: 5**  
**Deleted: CUPPS**  
**Deleted: CUPPS**

**2.5.4 DAPP Hardware Requirements**

A. The DAPP shall meet the requirements outlined in Section 2.9

- B. Refer to drawings for hardware types and quantities.
- C. In addition to the components shown on the drawings, the CONTRACTOR shall provide five (5) ~~DAPP~~ workstations to be used in baggage offices. The location of these devices shall be coordinated with the OWNER.

Deleted: CUPPS

**2.5.5 CONTRACTOR Responsibility**

- A. The CONTRACTOR shall be responsible for performing the appropriate coordination with the airline representatives to ensure that all specific airline peripheral requirements are met by the system. In addition, the CONTRACTOR shall be responsible for performing the appropriate coordination with the OWNER and the project manager to ensure all peripheral equipment (PCs, monitors, bag tag printers, boarding pass printers, document printers, etc.) will be accommodated by the counter casework and inserts that currently exist. As a minimum, the CONTRACTOR shall be required to perform shop drawing reviews and provide component drawings detailing the exact mounting requirements for each component and device to be supplied by this contract.

**2.6 COMMON USE SELF SERVICE**

**2.6.1 CUSS Kiosks**

- A. The CONTRACTOR shall provide a CUSS hardware and software system that ~~meets the functional requirements as established in JATA RP 1706.~~
- B. The final configuration and architectural requirements of the CUSS kiosks shall be coordinated with the OWNER.
- C. The CUSS kiosks shall include both in-line assigned use kiosks and open area general use kiosks.
- D. The assigned use kiosks shall provide self-service check-in services for the airline assigned to the associated ticket counter position. The assigned use kiosks shall boot to the associated airlines system and run the airline specific self-service check-in application. The assigned use kiosk shall be assigned via the RMS and operate in the assigned airlines native environment.
- E. The general use kiosks shall be used for self-service check-in for any supported airline. The general use kiosks shall include a common GUI interface with each airlines name/logo shown. The traveler shall select the airline for check-in via the touch screen. The selected airline's self-service application shall be initiated by the selection. The traveler shall be able to perform self-service check for the selected airline via the airline specific self-service check-in application. The general use kiosk shall be loaded with the LDCS in order to provide those smaller airlines that do not have

Deleted: conforms

Deleted: to

their own host system with the LDCS functionality. The general use kiosks shall service the supported airlines (refer to Airline Requirements) from the same kiosk without rebooting. Once a traveler has completed self-service check-in with a given airline, the kiosk shall return to the main airline selection screen.

- F. The pricing breakout shall include line items for the following components:
1. Base CUSS system cost
  2. Per airline software cost
  3. Per kiosk cost

## 2.6.2 AIRLINE REQUIREMENTS

- A. The airlines listed below shall be serviced by the CUSS. It is the Contractor's responsibility to verify/determine airline interface requirements and to determine peripheral interface requirements.
- B. Cost for integrating each airline into the CUSS shall be listed as a line item. Additionally, per airline cost shall be provided for adding additional airlines to the CUSS.
- C. Airlines to be serviced include, but are not limited to:

1. Air Canada
2. Air Jamaica
3. Air Sunshine (commuter)
4. Air Transat
5. Air Tran
6. America West
7. American
8. American Eagle
9. Avianca
10. Bahamas Air
11. Cayman Airways
12. CanJet
13. Chalks Ocean Airways (commuter)
14. Comair
15. Continental
16. Continental Connection (Gulfstream)
17. Delta/Delta Express
18. Florida Coastal (commuter)
19. Frontier
20. Island Express (commuter)
21. JetBlue
22. Lynx Air International (commuter)

Formatted: Bullets and Numbering

- 23. Midwest (Delta)
- 24. Northwest
- 25. Skyservice
- 26. Southwest
- 27. Spirit
- 28. Ted
- 29. Thomsonfly
- 30. Travelspan
- 31. United
- 32. USA3000
- 33. US Airways
- 34. Vintage Props and Jets
- 35. Westjet

**2.6.3 CUSS PERFORMANCE REQUIREMENTS**

- A. The time from when an airline is selected for self-service check-in and the selected self-service check-in application is fully operational for use shall not be more than ten (10) seconds. A "loading" or other similar screen shall be displayed within 1.0 second after the airline is selected.
- B. The CUSS shall meet all performance requirements set by the IATA CUSS Manual and IATA RP 1706c.

**2.6.4 CUSS HARDWARE REQUIREMENTS**

- A. The CUSS shall meet the hardware requirements in Section 2.9.
- B. The Contractor shall be responsible for performing the appropriate coordination with the airline representatives to ensure that all specific airline peripheral requirements are met by the system.
- C. The Contractor shall provide shop drawings and component drawings detailing the exact mounting requirements for each component and device(s) to be supplied by this contract.
- D. Each CUSS kiosk shall be equipped with a Personal Computer (PC) and a touch screen LCD Monitor (minimum 15" diagonal). All peripherals at the location shall either be directly connected to the workstation (via USB, parallel, or serial as appropriate) or to the system via the local area network. Where possible, the kiosk shall be an off-the-shelf solution from a CUSS kiosk manufacturer.
- E. The CUSS devices shall provide functionality equivalent to airline proprietary installations. All peripheral devices shall be supplied with the

Deleted: <#Air Jamaica[  
 <#Air Sunshine[  
 <#Air Transat[  
 <#AirTran[  
 <#America West[  
 <#American[  
 <#American Eagle[  
 <#American Trans Air[  
 <#Bahamas Air[  
 <#Canada 3000[  
 <#Cape Air[  
 <#Casino Airlink[  
 <#Chalks Ocean Airways[  
 <#Comair[  
 <#Condor[  
 <#Continental[  
 <#Delta/Delta Express[  
 <#Island Express[  
 <#JetBlue[  
 <#Laker Airways[  
 <#Lynx Air International[  
 <#MetroJet[  
 <#Miami Air[  
 <#Midway[  
 <#Northwest[  
 <#Royal[  
 <#South African Airways[  
 <#Southwest[  
 <#Spirit[  
 <#United[  
 <#US Airways[

Deleted: five

Deleted: 5

Deleted: 0.5

Deleted: s

necessary interface cabling. Peripherals to be included in the CUSS will include as a minimum

1. Receipt Type Printer (include ability to print 2D barcodes - PDF417)
2. Magnetic Stripe Reader (MSR)
3. Bag Tag Printer (BTP)
4. Optical Character Recognition (OCR) Reader.
5. Passport reader.

Deleted: (price as an option to the base bid)

F. CUSS machines shall accommodate new hardware as upgradeable features such as bar code scanners, RFID tag printers, and biometrics. The CUSS kiosks shall accommodate swap-outs of subcomponents.

## 2.7 LOCAL DEPARTURE CONTROL SYSTEM (LDCS)

### 2.7.1 System Overview

A. A Local Departure Control System (LDCS) provides automated check-in and departure control for non-hosted airlines and irregular flight operations. The LDCS enables these airlines/flights to perform computerized passenger check-in and boarding using a common Graphical User Interface (GUI). The LDCS includes an OWNER-based database that stores the passenger reservation information for each airline and flight. At FLL, the database used shall be the Airport Operational Database (AODB). Reservation information is entered into the AODB database prior to the irregular flight operation or periodically depending on the airline. The flight data is initially entered using modem download, data entry, removable storage media, or other agreed upon method. Once flight data is entered into the AODB, the authorized airline agent can check-in passengers, issue boarding passes, print bag tags, and scan boarding passes using the LDCS software and GUI. The LDCS shall utilize the DAPP common equipment including the DAPP workstation and peripherals.

Deleted: CUPPS

Deleted: CUPPS

B. The LDCS shall maintain passenger status (e.g. boarded, not boarded) for each departing flight and update it as passengers board. Other LDCS functionality shall include the ability to generate, open, and close flights, record number of bags and generate bag tags, and provide seat selection and assignment.

C. The LDCS shall provide computerized passenger check-in and boarding services for airlines that lack a host-based Carrier Reservation System (CRS). The LDCS shall include an Authority-based database that stores the passenger reservation information for each participating airline and flight. Each participating airline shall have the ability to load reservation

## Exhibit 4

### Siemans and Kinetics Letters Refusing to Bid

## Howlett, Julie

---

**From:** Siegel, Allan on behalf of Airport Expansion  
**Sent:** Wednesday, December 06, 2006 1:13 PM  
**To:** Howlett, Julie  
**Subject:** FW: RFP for AIMS

Hi Julie:

I am not sure if you are involved with the RFP cited below. If not, let me know. This email came through the expansion mail box.

Allan Siegel  
Community Outreach Coordinator  
Fort Lauderdale - Hollywood International Airport  
954-359-6978  
[asiegel@broward.org](mailto:asiegel@broward.org)  
[www.FLL.net](http://www.FLL.net)

---

**From:** Peter Dallaway [mailto:[peter.dallaway@kineticsusa.com](mailto:peter.dallaway@kineticsusa.com)]  
**Sent:** Tuesday, December 05, 2006 2:17 PM  
**To:** FLLBusiness  
**Cc:** David Steding; Airport Expansion  
**Subject:** RFP for AIMS

Attn Purchasing Department, Broward County, Dept of Aviation  
Copy to CIO, Fort Lauderdale-Hollywood Airport

With reference to RFP #A06AV035S-JL, AIMS Proposal with respect to CUSS & Self-Service Kiosks

Dear Sir/Madam,

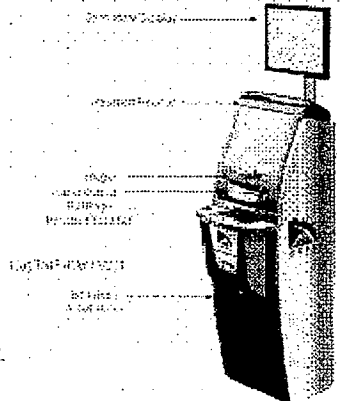
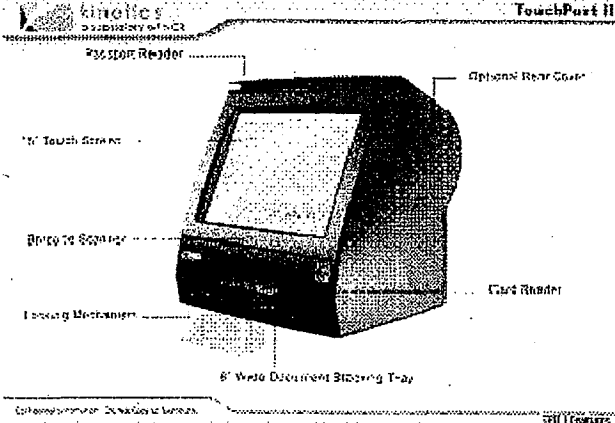
Having been initially approached by five consortia to respond to your RFP we have seen each one drop out because of concerns about their ability to bid fairly for the work. In each case they cited that the RFP has been written for AirIT's product set, which they noted is itself largely unproven and follows a specification unendorsed by IATA, being neither CUTE, CUSS or CUPPS compliant.

This means that Kinetics, the supplier of 80% of the airline self-service kiosks in the US market is unable to propose its CUSS (Common Use Self Service) self-service solution for Fort Lauderdale-Hollywood International Airport. This is of considerable frustration to us since our solution is already in use at your airport, where it is used by airlines like Delta, Spirit, Air Tran etc, and it would have been easy and inexpensive for you to implement and operate in accordance with the requirements set out in the RFP. The CUSS middleware we provide with the application would also meet the functional needs of your DAPP requirements. So instead of acquiring the middleware, platform & hardware for a one-time fee of approximately \$10,000 per device or desk, including middleware for DAPPS and airline connectivity you will likely use a much more expensive option. We will send you an unsolicited proposal for this solution during the course of this week on the basis you have the right to swap out any component of a suggested solution proposed by a main contractor and may instead use our solution.

We are also able to bring your airport a novel approach to a customer loyalty scheme through this program

Yours sincerely

Peter Dallaway



brgds

VP Sales, Kinetics  
Tel: +1 407 333-4100 Ext. 147  
Cell +1 407 920 1565  
Kinetics, 200 Colonial Center Parkway, Suite 300, Lake Mary, FL 32746, USA, [www.kineticsusa.com](http://www.kineticsusa.com)

---

This electronic transmission is strictly confidential and intended solely for the addressee. It may contain information that is covered by legal, professional, or other privilege. If you are not the intended addressee, you must not disclose, copy or take any action in reliance of this transmission. If you have received this transmission in error, please notify the sender as soon as possible.

# SIEMENS

Global network of innovation

Brian Malinowski  
Broward County Aviation Department  
100 Aviation Blvd.  
Ft. Lauderdale, FL 33315

Name Steve Winslow  
Division Siemens Business Services, Inc.

Telephone (770) 740-2202  
Fax (770) 667-6361  
Mobile (770) 712-7969  
E-mail Stephen.winslow@siemens.com  
Internet www.usa.siemens.com/sbs

Our reference RFP# A06AV035S—JL  
Airport Information Management System (AIMS)  
Date December 1, 2006

Dear Mr. Malinowski,

Siemens Business Services appreciates the invitation to respond to the Broward County Department of Aviation's Request For Proposal for Airport Information Management Services (RFP# A06AV035S—JL).

Unfortunately, Siemens Business Services ("Siemens") is unable to provide a response for this RFP, for the following reasons:

- Solution technical requirements fall outside of Siemens Business Services "Best-Practice" Solution Methodologies
- Solution technical requirements fall outside of existing partners' "Best-Practice" Solution Methodologies
- Lack of visibility to business and technical requirements driving the stated solution requirements

Ultimately, Siemens Airports portfolio is not a good technical fit for the AIMS solution requirements as stated in the Request for Proposal. Additionally, several of our primary partners that would be required to deliver this solution have also declined to provide responses, based on the stated technical requirements when compared to their overall solution capabilities.

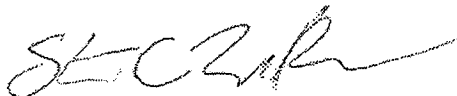
As such, Siemens feels that our ability to provide a competitive technical solution, and subsequent competitive pricing for this requirement, is greatly diminished by the current requirements of this RFP.

Consequently, Siemens asks that the RFP Submission date be extended/postponed, and that the Broward County Department of Aviation give serious consideration to a technical review and rescoping of the requirements. Siemens would appreciate an opportunity to discuss the technical, environmental and budgetary drivers behind the AIMS initiative for the Broward County Department of Aviation, in order to provide some insight and recommended changes to the technical requirements for potential future participation in this opportunity, should the above mentioned consideration occur.

If you have any questions on the above, please do not hesitate to contact me directly.

Sincerely,

cc: John Raite



Siemens Business Services, Inc.

Postal address:  
4955 Oak Laurel Way  
Alpharetta, GA 30004

Telephone (770) 740-2302  
Fax (770) 667-6361

## Exhibit 6

### Joint Protest and County Response



Finance and Administrative Services Department

**PURCHASING DIVISION**

115 S. Andrews Avenue, Room 212 • Fort Lauderdale, Florida 33301 • 954-357-6065 • FAX 954-357-8535

CERTIFIED MAIL 7006 0810 0005 3662 3515

May 22, 2008

Sidney C. Calloway, Esq.  
Joseph M. Goldstein, Esq.  
Shutts & Bowen LLP  
200 East Broward Boulevard, Suite 2100  
Fort Lauderdale, Florida 33301

Re: Request for Proposal (RFP) No. 20070514-0-AV-01, Airport Information Management System (AIMS)

Dear Messrs. Calloway and Goldstein:

I am in receipt of your letter dated March 3, 2008 in which your clients, Infax, Inc., Talgentra, Ltd., and Ultra Electronic Airport Systems protest the decision made by the Evaluation Committee on February 25, 2008 regarding the Request for Proposal No. 20070514-0-AV-01, Airport Information Management System (AIMS). Specifically, you state that the Evaluation Committee's vote to award the AIMS Project to Air-Transport IT Services, Inc. (Air IT) was based upon an improper deviation from established Committee procedures, Broward County guidelines, and/or applicable Florida law.

A. In accordance with Section 21.118 (a) of the Broward Procurement Code, "[a]ny actual or prospective bidder or offeror who has substantial interest in and is aggrieved in connection with the solicitation or proposed award of a contract which is in excess of the award authority of the Director of Purchasing may protest to the Director of Purchasing". Without waiving any right for the County to assert a lack of standing issue in regards to both Talgentra, Ltd., (third-highest ranked firm) and Ultra Electronic Airport Systems (fourth-highest ranked firm), this response will pertain to all of the protestors since they collectively raise the same issues in the protest.

B. In accordance with Section 21.118(a)(1) of the Broward County Procurement Code, "[a]ny protest concerning the bid or other solicitation specifications or requirements must be made and received by the County within seventy-two (72) hours from the time the facts become known and, in any case, at least twenty-four (24) hours prior to the bid opening".

The protest alleges three (3) issues dealing with the specifications of the solicitation and the following is in response to those allegations.

Broward County Board of County Commissioners

Josephus Eggeletton, Jr. • Sue Gunzburger • Kristin D. Jacobs • Neil Keechi • Ilene L. Goldman • Stacy Ritter • John E. Rodstrom, Jr. • Diana Wasserman-Rublin • Lois Wexler  
www.broward.org/Purchasing

Sidney C. Calloway, Esq., Joseph M. Goldstein, Esq., Shutts & Bowen LLP  
Re: RFP No. 20070514-0-AV-01  
May 22, 2008

Page 2

(1) The protest alleges that both Broward County solicitations for the AIMS Project unfairly slanted towards Air IT. This allegation involves the specifications for the AIMS RFP. Consequently, for this issue to be raised timely, it needed to be submitted prior to the opening of the RFP solicitations on August 14, 2007. We received this protest in March of 2008. Therefore, this allegation is not timely and is denied.

(2) The protest alleges that undue weight was given to the "DAPP" (Dynamic Assignment Passenger Processing) solution in the Evaluation Criteria for the AIMS RFP No. 20070514-0-AV-01". Again, this issue involves the specifications and to be timely needed to be submitted prior to the opening of the RFP solicitations on August 14, 2007. We received this protest in March of 2008. Therefore, this allegation is not timely and is denied.

(3) The protest also alleges issues related to the Technical Specifications. As stated previously, issues involving the specifications needed to be submitted prior to the opening of the RFP solicitations on August 14, 2007. We received this protest in March of 2008. Therefore, this allegation is not timely and is denied.

C. In accordance with Section 21.118 (a) of the Broward County Procurement Code, "[a]ny allegations of misconduct or misrepresentation on the part of a competing vendor will not be considered a protest, but will be reviewed and, if appropriate, in the County's sole discretion, used for purposes of evaluating the responsibility or qualifications of the vendor(s)". Therefore, the allegations in the protest that state that Air IT's System is problem-plagued in Sacramento constitutes an allegation which, according to the Broward County Procurement Code, will not be considered. Similarly, the allegation that Convergent Strategies Consulting (CGS) has improper ties to Air IT constitutes an allegation against CGS and, although the allegation is not against one of the proposers but against the County's consultant, it is also not a matter to be considered in a protest.

D. In accordance with Section 21.118 (a) of the Broward County Procurement Code, which governs the right to protest, "[p]rotests arising from the decisions and votes of Selection/Negotiation or Selection/Evaluation Committees shall be limited to protests based upon alleged deviation(s) from established Committee procedures set forth in this Code and existing Broward County written Guidelines."

The protest alleges five (5) procedural deviations in the Evaluation process and the following is in response to those allegations.

(1) The protest alleges improper questioning by members of the Evaluation Committee. Specifically, the protest states that during the Final Evaluation Committee Meeting on Monday, February 25, 2008:

"Without question, the most active and vocal members of the Evaluation Committee were Mayor and Commissioner Lois Wexler and County Commissioner Josephus Eggleton. Both Commissioners focused almost exclusively all their questions, comments and concerns upon each vendor's experience implementing and designing "DAPP" solutions. Both Commissioner Eggleton and Mayor Wexler took pains to elicit concessions and explanatory statement from Petitioners (and even County staff) which confirmed the fact that only Air IT had past or present experience implementing a DAPP solution".

Sidney C. Calloway, Esq., Joseph M. Goldstein, Esq., Shutts & Bowen LLP  
Re: RFP No. 20070514-0-AV-01  
May 22, 2008

Page 3

In response, the usual procedure during the Final Evaluation Committee Meeting is to ask questions of the proposers in order to clearly understand the qualifications of their firm and the capability of their system or service. This is done in order to give Evaluation Committee members an opportunity to have any questions answered before they give final rating points to each of the proposals. In this case, due to the necessity within the RFP specifications, for each proposers' system to have a proven DAPP solution within its larger Airport Information Management System, the Evaluation Committee members' questions tried to elicit that information. This is consistent with standard RFP procedures and is not a deviation from them. Therefore, the allegation that any improper questioning took place is denied.

(2) The protest alleges that the County gave undue consideration to the DAPP Solution. In response, the Evaluation Committee members have discretion under the Broward County Procurement Code to assign those rating points which, in their judgment, are appropriate after their review of proposers' responses, demonstrations, presentations and questions and answers. In addition, the assertion is not quantifiable since the DAPP solution specification requirement is only one of a number of factors within the "Approach and Technical Solution" Criteria Item, but could also be considered in the "Qualifications and Experience" Criteria. Therefore, there was no procedural deviation and the allegation is denied. Furthermore, in regards to the statement that "[i]n this case, the County's proposed selection is arbitrary, capricious and contrary to the Broward County Procurement Code because undue weight was placed upon the proprietary DAPP solution. Inter alia, by questioning whether each proposer had experience with 'the specific DAPP system we requested', as asked by Mayor Wexler of each competitor, the County 'locked in' a specific brand or vendor (Air IT) in violation of Section 21.53", the County denies the assertion.

(3) The protest alleges that the Evaluation Committee failed to reasonably consider whether Air IT had a Local Departure Control System (LDCS) Response to the RFP. This allegation is not valid because the Evaluation Committee members have discretion under the Broward County Procurement Code to assign rating points which, in their judgment, are appropriate. Therefore, there was no procedural deviation and the allegation is denied.

(4) The protest alleges the Evaluation Committee failed to reasonably consider whether Air IT's "DAPP" Solution is the industry standard. This allegation is also not valid because the Evaluation Committee members have discretion under the Broward County Procurement Code to assign rating points which, in their judgment, are appropriate. Therefore, there was no procedural deviation and the allegation is denied.

(5) The protest alleges that the County illegally considered Minority Participation. As you are aware, due to the suspension of the Minority Women Business Enterprise (MWBE) Ordinance in June 2007, Addendum No. 2 was published deleting the MWBE requirements from the RFP solicitation. Since there were no MWBE requirements, no proposers were disqualified in the Initial Evaluation Meeting as a result. In the Final Evaluation Meeting, it is established procedure for Evaluation Committee Members to question the proposers about their firms' qualifications. Although Commissioner Eggleston questioned proposers about the presence of any MWBE subcontractors on their teams, no rating points could have been given for MWBE participation since this was not part of any of the three Evaluation Criteria (i.e. Qualifications and Experience – 20%; Project Approach and Technical Solution – 60%; and Price – 20%). Consequently, there was no procedural deviation and the allegation is denied.

Sidney C. Calloway, Esq., Joseph M. Goldstein, Esq., Shutts & Bowen LLP  
Re: RFP No. 20070514-0-AV-01  
May 22, 2008

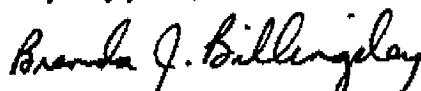
Page 4

In summary, the protest alleged five (5) potential procedural deviations which have been addressed and denied. Consequently, there were in fact no deviations from any Broward County procedures and policies governing this RLI process. Therefore, in accordance with Section 21.118 (a) of the Broward County Procurement Code, the protests are denied as asserted by Infax, Inc, Talgentra, Ltd. and Ultra Electronic Airport Systems.

In accordance with Section 21.120 (a)(1) the Broward County Procurement Code, "[a]ny person having a substantial interest in the matter, who is dissatisfied or aggrieved with the notification of the Director of Purchasing's determination regarding the resolution of a protested solicitation or proposed award or a determination to debar or refusal to reinstate, must, within ten (10) calendar days of such notification, appeal said determination to the County in accordance with the hearing procedures contained in Section 21.118 (f). In accordance with Section 21.120 (c)(4) of this Code, "[t]he Hearing Officer shall only determine whether procedural due process has been afforded, whether essential requirements of law have been observed, and whether the Purchasing Director's findings are arbitrary, capricious, or an abuse of discretion or whether such findings are in accordance with the law or are unsupported by substantial evidence as a whole". Substantial evidence means such relevant evidence as a reasonable person might accept as adequate to support a conclusion.

In order to request a hearing before a Hearing Officer you must, within ten (10) calendar days of receipt of this letter, provide a written request for such a hearing. Your written request must be addressed to the Director of Purchasing, 115 South Andrews Avenue, Room 212, Fort Lauderdale, Florida 33301. The request must briefly state the facts and arguments upon which the appeal is made; must be timely made; and must be accompanied by an appeal bond in the amount of \$800 conditioned upon payment of all costs and fees awarded the County pursuant to sub-section 21.120 (c)(7) of the Procurement Code in the form as attached hereto. In lieu of the appeal bond, the County may accept cash, money order, certified check, or cashier's check, payable to Broward County Board of County Commissioners. Failure to provide the written request and the bond or other security within the time prescribed shall constitute a waiver of proceedings under the Procurement Code.

Very truly yours,



Brenda J. Billingsley, Director  
Purchasing Division

cc: Larry Lymas-Johnson, Deputy County Attorney  
Glenn M. Miller, Assistant County Attorney  
John Hernandez, Aviation Department  
Bonnie Greenberg, Aviation Department  
John Raite, PA III Negotiator, Purchasing Division  
William J. Cea, Esq., Becker & Poliakoff

Attachments

BJB/JR:mg

BROWARD COUNTY  
PROCUREMENT PROTEST APPEAL BOND

Bond Number: \_\_\_\_\_

Contract Number: \_\_\_\_\_

KNOW ALL PERSONS BY THESE PRESENTS:

That we, \_\_\_\_\_ a (mark one)  corporation,  partnership,  proprietorship, organized and existing under the laws of the State of \_\_\_\_\_, and having its principal place of business at \_\_\_\_\_, as **PRINCIPAL**; and \_\_\_\_\_, a surety company, organized under the laws of the State of \_\_\_\_\_, duly authorized to do business in the State of Florida, whose principal place of business is \_\_\_\_\_, as **SURETY**, are held and firmly bound unto BROWARD COUNTY, as **OBLIGEE**, in the amount of \$800.00 for the payment of which sum we, as Principal and Surety, bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally.

THIS BOND is issued to comply with Section 21.120, Broward County Procurement Code. The above-named Principal has initiated an appeal of the Purchasing Director's determination on Principal's administrative protest regarding the Obligee's decision or intended decision pertaining to (mark one)  Bid,  RLI,  RFP  other solicitation, Number \_\_\_\_\_ submitted by \_\_\_\_\_. Said appeal is conditioned upon the posting of the bond at the time of filing the formal written request for hearing before a hearing officer.

NOW, THEREFORE, the condition of this Bond is that if the Principal, after the administrative hearing process regarding the protest, shall satisfy all costs and charges imposed by final order of the hearing officer, in the event the hearing officer finds there was a complete absence of a justifiable issue of either fact or law raised by the institution and maintenance of the protest, then the obligation shall be null and void; otherwise it shall remain in full force and effect.

The Obligee may bring an action to a court of competent jurisdiction on this bond for the amount of such liability, including all costs and attorneys' fees.

PRINCIPAL: \_\_\_\_\_

BY: \_\_\_\_\_

\_\_\_\_\_

(Print name and title)

ATTEST: \_\_\_\_\_

(CORPORATE SEAL)

\_\_\_\_\_

(Print name and title)

SURETY: \_\_\_\_\_

BY: \_\_\_\_\_

\_\_\_\_\_

(Print name and title)

(CORPORATE SEAL)

Florida Resident Agent \_\_\_\_\_

**(Note: Power of Attorney showing authority of Surety's agent or Attorney in Fact must be attached).**

**SHUTTS  
&  
BOWEN  
LLP**

ATTORNEYS AND COUNSELLORS AT LAW

SIDNEY C. CALLOWAY  
Member Florida Bar  
(954) 847-3833 Direct Telephone  
(954) 888-3063 Direct Facsimile

E-MAIL ADDRESS:  
scalloway@shutts.com

March 3, 2008

**VIA HAND DELIVERY**

Brenda J. Billingsley, Director  
Broward County Purchasing Division  
115 S. Andrews Avenue, Room 212  
Fort Lauderdale, FL 33301

Re: Protest of Evaluation Committee Recommendation of Award in  
Airport Information Management System (AIMS Project)  
RFP No. 2007-0514-0-AV-01

Dear Ms. Billingsley:

Please be advised that this firm has been retained by Infax, Inc. ("Infax"), Talgentra Ltd. ("Talgentra"), and Ultra Electronic Airport Systems ("Ultra EAS") (hereinafter collectively referred to as "Petitioners") to represent their individual and collective legal interests in the above-referenced proposed award of a contract. Petitioners are each responsive and responsible proposers for the AIMS Project, and are highly regarded as the industry leaders in the airport information systems industry. You are further advised that, in accordance with the Broward County Procurement Code, the Petitioners hereby submit this letter as their formal protest which arises from the decision and/or vote of the Evaluation Committee on February 25, 2008. Petitioners assert that the Evaluation Committee's consideration, decision and vote to recommend that the AIMS Project be awarded to Air-Transport IT Services, Inc. ("Air IT") was based upon an improper deviation from established Committee procedures, Broward County guidelines and/or applicable Florida law.

As will be explained in more specific detail below, the proposed award of the AIMS Project to Air IT based upon the decision and vote of the Evaluation Committee is arbitrary, capricious, and contrary to fundamental fairness. Aided in substantial part by Convergent Strategies Consulting, Inc., ("CSC"), the Broward County Aviation Department's IT consultant for the AIMS Project, the Evaluation Committee focused almost exclusive consideration of each Petitioner on establishing two facts: (a) that each company had little or no experience with a Dynamic Assignment Passenger Processing ("DAPP") system solution, and (b) each company's

Brenda J. Billingsley, Director  
Broward County Purchasing Division  
Page 2

proposed DAPP solution was "currently in development and not presently in use at any airport". At the same time the Evaluation Committee apparently accepted, without serious inquiry, Air IT's representation that it was the only proposed vendor with any experience in implementing the DAPP solution and that, in fact, its proposed Extended Airline System Environment (EASE) "is currently installed and operational at other airports".

The Evaluation Committee's near total fixation on concluding that only Air IT had past and present experience with the DAPP system solution, was in complete disregard of the fact that the "DAPP" project component was only one (1) of the five (5) sub-systems<sup>1</sup> comprising the County requested AIMS Project. Furthermore, the Evaluation Committee either knew or should have known that DAPP/CUSS component also comprised less than 25% of the total proposed costs of the AIMS Project. Likewise, the Evaluation Committee also chose to ignore the fact that the DAPP system component was only specified for Terminal 4 at FLL while all other sub-systems were specified to implement throughout the entire airport.

Even though a previous technical evaluation had confirmed that the Petitioner's DAPP solutions were competent for this procurement, the Selection Committee gave scant consideration to any of the proposers' respective qualifications, experience, approach and technical solutions for the other 4 AIMS sub-systems. Instead, the Evaluation Committee, by its hyper-concentration on the importance of a "DAPP" system, "locked in" on Air IT as the preferred vendor for the AIMS Project.

This entire RFP has slanted toward specs that unfairly and arbitrarily favor Air IT. This slanted process was further tainted by the effort of CSC, the County Aviation Department's own IT consultant for the AIMS Project, who played a key role in creating the technical specifications for this project which all but guaranteed an unfair advantage to Air IT. At all time material to the AIMS Project, the County either knew or reasonably should have known of the improper relationship between CSC and Air IT.

Additionally, the Evaluation Committee decision and vote to recommend award to Air IT violated the open-procurement provisions of the County Code because the Selection Committee improperly inquired as to whether the Petitioners had minority business enterprises ("MBE") participating on their respective teams.

Petitioners also assert that the Evaluation Committee, in its zeal to unfairly benefit Air IT, also closed its eyes to Air IT's relative inexperience and qualifications for the proposed solution, when even the slightest reasonably inquiry on its part would have exposed that Air IT has only a fraction of the global AIMS market, and is neither responsive or responsible under the terms of the RFP.

---

1 The other four AIMS system components include the Airport Operational Database (AODB), the Electronic Visual Information Display System (EVIDS), the Resource Management System (RMS), and the Local Departure Control System (LDCS)

Brenda J. Billingsley, Director  
Broward County Purchasing Division  
Page 3

I. STANDING AND TIMELINESS

a. Standing

This is a bid protest arising from the decision and votes of an Evaluation Committee, brought under the Broward County Procurement Code, Section 21.118, which states that:

Any actual or prospective bidder or offeror who has a substantial interest in and is aggrieved in connection with the solicitation or proposed award of a contract which is in excess of the award authority of the Director of Purchasing may protest to the Director of Purchasing. Protests arising from the decisions and votes of Selection/Negotiation or Selection/Evaluation Committees shall be limited to protests based upon alleged deviation(s) from established Committee procedures set forth in this Code and existing Broward County written Guidelines. Any allegations of misconduct or misrepresentation on the part of a competing vendor will not be considered a protest, but will be reviewed and, if appropriate, in the County's sole discretion, used for purposes of evaluating the responsibility or qualifications of the vendor(s).

Petitioners, in their individual capacity, are each a responsive and responsible proposer that was evaluated by the Evaluation Committee for this proposal. As such, each has a substantial interest in the procurement. Moreover, Petitioners are aggrieved by the proposed award to AirIT because of the arbitrary, capricious and illegal nature of the Evaluation Committee's decision and vote, which was unreasonably tainted with undue weight as to whether the proposed vendor had previously or currently implemented the so-called "DAPP" systems component of the AIMS project. The Committee's decision and vote was also marred by its application of a W/MBE preference that was contrary to the terms of the subject solicitation. The scoring and procedure followed in the subject solicitation was so fatally flawed in this procurement that it is impossible to know, without rescoring, which of the Petitioners would have been selected for award.<sup>2</sup>

b. Timeliness

This protest is timely filed within seven (7) days of February 25, 2008, the date of the Evaluation Committee's recommendation to award this contract to AirIT. See: *Broward County Procurement Code*, Section 21.118(2).

II. THE SOLICITATION

This procurement was issued as a Request for Proposals ("RFP") for technical services, final design, and installation of an Airport Information Management System (AIMS). The AIMS procurement is likely to be the largest and most important at FLL over the next five years. The

<sup>2</sup> In terms of traditional standing analysis, we note that Infax was the second-ranked proposer for this procurement, and was recommended by Aviation Department staff as the preferred solution at the lowest price. Thus, Infax has an additional and independent basis for asserting standing to seek the relief requested.

FTLDOCS 529478 2

SHUTTS & BOWEN LLP

MIAMI FORT LAUDERDALE WEST PALM BEACH ORLANDO TAMPA TALLAHASSEE AMSTERDAM LONDON

Brenda J. Billingsley, Director  
Broward County Purchasing Division  
Page 4

AIMS systems collectively operate as the brains of the airport and will allow FLL to establish common use airport terminals. Additionally, the AIMS controls most aspects of operations from visual flight displays to local departure controls. Under the RFP, the AIMS is to consist of an Airport Operational Database (AODB), an Electronic Visual Information Display System (EVIDS), a Resource Management System (RMS), Dynamic Assignment Passenger Processing ("DAPP")/Common Use Self Service (CUSS), and a Local Departure Control System (LDCS). In addition, the RFP called for the integration of services with an existing local area network (LAN) and Voice over Internet Protocol (VoIP) system.

a. Both Broward County Solicitations For The AIMS Project Unfairly Slanted Towards Air IT

The first iteration of the AIMS Project was released on October 25, 2006 under a Request for Proposal, RFP # A06AV0355-JL. The technical specification for this RFP was either authored or substantially influenced by the County's consultant - Convergent Strategies Consulting ("CSC"). Because of the direct and material influence of CSC, the technical specifications for the first RFP, in addition to requiring the other four sub-systems, required any prospective vendor to deliver a DAPP or "network centric architecture topology solution. In essence the initial RFP exclusively required "network centric architecture" for the "DAPP" and prohibited Common Use Terminal Equipment ("CUTE") based devices. County Staff and CSC either knew or reasonably should have known that the Dynamic Allocation Passenger Processing ("DAPP") peripherals and the network centric architecture topology that were being proposed by CSC for use at FLL were, in fact, proprietary in nature and could only be delivered from a one single source - Air IT.

Furthermore, the County Staff and CSC also knew that the RFP technical specification requiring a DAPP or network centric architecture topology solution was (a) slanted in favor of Air IT and (b) inconsistent (and even competitive) with existing and developing standards of many, if not most, international airports and the International Airport Transport Association<sup>3</sup> ("IATA"), which have been promoting a "server centric architecture" common use passenger processing systems. Due to low participation levels and complaints from would-be vendors to the initial AIMS Project, the RFP was later aborted.

By all accounts, the concerns of many would-be proposers, including Petitioners, were rational and well founded since it is disputed that the "DAPP" solution is, indeed, a proprietary system which was developed by Air IT and is currently under a patent application before the United States Patent Office<sup>4</sup>. The County Staff knew or reasonably should have known that that the

<sup>3</sup> IATA represents some 240 airlines comprising 94% of scheduled international air traffic. The organization also represents, leads and serves the airline industry in general

<sup>4</sup> See attached US Patent & Trademark Office, Patent Application for Assignee, Air Transport IT Services, Inc., Serial Number, 869606, Series Code, 10, dated June 16, 2004.

FLLDOCS 5294178 2

SHUTTS & BOWEN LLP  
MIAMI FORT LAUDERDALE WEST PALM BEACH ORLANDO TAMPA TALLAHASSEE AMSTERDAM LONDON

Brenda J. Billingsley, Director  
Broward County Purchasing Division  
Page 5

DAPP solution being peddled by CSC and Air IT was actually in use at only three<sup>5</sup> (3) of the approximately four hundred (400) common use passenger processing installations around the world approximately. What's more, for each of the 3 installations using Air IT's DAPP solution, CSC was the airport consultant who either wrote or substantially influenced the adoption of the technical specifications requiring a DAPP solution to the exclusion of any other industry standard solution.

By comparison, CUTE is the industry standard for peripherals and is authorized by IATA which regulates and determines standards for not only terminal equipment, but also assigns three-digit airline codes and two letter airline codes. Virtually all of the ticket issuing equipment, bar code readers, and other terminal equipment devices currently used at FLL are CUTE devices. "DAPP", while also being proprietary to Air IT, represents a significant departure from existing industry standards but also to an emerging industry sanctioned technology - Common Use Passenger Processing System ("CUPPS"), which relies upon server based virtual platform as opposed to the network hard drive partitioned platform underlying the DAPP solution.

In response to the initial RFP for the AIMS Project, potential proposer ARINC, stated, in pertinent part:

(We) have come to the conclusion that due to qualification criteria as established by Convergent Strategies Consulting Inc., the consultants to the Broward County Aviation Department IT group, there exists virtually no possibility of a fair comparison of our products and services to the qualifications as outlined in the RFP.

The second version of the AIMS Project was released on June 4, 2007, under the current version of the solicitation, RFP No. 20070514-0-AV-01. This version of the RFP was purportedly revised to prospective vendor to propose utilizing "CUTE" references (i.e. peripherals). It also was revised to permit "server-centric architecture", which appeared to suggest that FLL had acknowledged that it would fairly and equitably consider the two competing passenger processing systems - one being Air IT's DAPPS and its pre-partitioned hard-drives - and the other being the emerging IATA-based CUPPS model of virtual computing preferred by Petitioners.

Finally, under RFP No. 20070514-0-AV-01, the County permitted prospective vendors an opportunity to test and validate their respective solutions in order to be pre-qualified. Because of the revisions in the second RFP for AIMS Project, Petitioners reasonably believed that the County would fairly consider and evaluate their respective solutions provided they met the technical specifications of the RFP. Petitioners relied upon the seemingly adequacy of the

<sup>5</sup> The 5 awarded contracts include the airports at Sacramento, San Jose, Sarasota, Northwest Chicagoland and Philadelphia. The system is not yet operational in Philadelphia, San Jose or Sacramento.

FTLDOC'S \$294178 2

SHUTTS & BOWEN LLP

MIAMI FORT LAUDERDALE WEST PALM BEACH ORLANDO TAMPA FALLAHASSEE AMSTERDAM LONDON

Brenda J. Billingsley, Director  
Broward County Purchasing Division  
Page 6

technical specifications and the opportunity for validating their proposed solutions for their conclusion that the County would treat all prospective vendors equally and fairly.

b. Evaluation Criteria For ADMS RFP No.: 20070514-0-AV-01

The RFP set forth three (3) areas upon which proposers were to be evaluated by the Evaluation Committee: (1) Qualifications and Experience (20%); (2) The Project Approach and Technical Solution (60%); and (3) Price (20%).

Each general category included the following sub-categories for consideration:

**I. Qualifications and Experience – 20%**

- Prime Proposer's qualifications
- (Company Profile) as described in this RFP.
- Prime Proposer's, relevant experience providing system implementation services similar in scope and complexity to other major hub airports or other transportation industries.
- Proposing Team, relevant experience and qualifications providing technology solutions relating to all components of this RFP.
- Proposing Team, Project management, relevant experience managing projects of similar scope and complexity.
- Proposing Team, relevant experience and qualifications in providing maintenance and support for projects of similar scope and complexity.

**II. Approach and Technical Solution – 60%**

- Technical Narrative
- Technical Detailed Response
- Schedule and Project Phasing
- Commitment of proposed personnel to the project
- Understanding of project and client management responsibilities
- Hardware and Software
- Application Development
- Training Program
- Test Plan
- Warranty Plan and coverage
- Maintenance Plan and coverage

**III. Total Cost of Ownership – 20%**

- Proposal total cost

FTL.DOC# 5294178 2

SHUTTS & BOWEN LLP

MIAMI    FORT LAUDERDALE    WEST PALM BEACH    ORLANDO    TAMPA    TALLAHASSEE    AMSTERDAM    LONDON

Brenda J. Billingsley, Director  
Broward County Purchasing Division  
Page 7

- On-going maintenance and support costs
- Unit costs and labor rates

In conjunction with their opportunity for having County Staff validate and certify the sufficiency of their respective proposed "DAPP" equivalent systems solutions, Petitioners also relied upon the evaluation criteria, which purportedly only placed limited weight upon the vendor's previous experience implementing similar systems (the Qualifications and Experience category was worth a total of 20%). Since the "DAPP" system was one of only five components, and each Petitioner had far greater experience and expertise in installing the EVIDS, AODB systems, CUSS Terminals and LDCS systems, Petitioners reasonably believed that upon certification of their own "DAPP" equivalent system, that each Petitioner could fairly compete under the procurement terms.

c. Minority and Woman Owned Business Enterprise Participation

In addition to the above-referenced evaluation criteria, the AIMS RFP No.: 20070514-0-AV-01 also set contract goals for Minority and Women Owned Business Enterprise ("M/WBE") participation as follows:

<b>Business Enterprise Category</b>	<b>Goal</b>	<b>% of Participation</b>
• Minority Business Enterprise (MBE)	15%	
• African-American		5%
• Hispanic		5%
• Asian-American		5%
• Women Business Enterprise (WBE)	5%	
<b>Overall Goal % of Participation Goal -</b>	<b>20%</b>	

However, on July 2, 2007, following an agreement by Broward County to place its M/WBE program on hold pending litigation, the County issued Addendum Number 2 which removed these criteria from the Solicitation. The County did not issue any other addenda setting M/WBE participation goals. As such, consideration of M/WBE participation in the instant AIMS Project was expressly prohibited under the specifications of the RFP.

d. The Evaluation Committee's Decision and Vote

Prior to the Evaluation Committee meeting, the County reviewed the RFP responses and declared each of the Petitioners to be "responsive" vendors meeting the criteria of the RFP. As indicated before, the County supervised solution testing and certified that each of the solutions proposed by the Petitioners adequately met the specifications and technical requirements of the RFP. Following validation of the vendors' proposed solution, Staff prepared a detailed matrix concerning the responses and evaluated the relative strengths and weaknesses of the proposals. County Staff's evaluation is hereby incorporated into this Protest by reference.

FTLDOC'S 5294378 2

---

SHUTTS & BOWEN LLP

MIAMI    FORT LAUDERDALE    WEST PALM BEACH    ORLANDO    TAMPA    TALLAHASSEE    AMSTERDAM    LONDON

Brenda J. Billingsley, Director  
Broward County Purchasing Division  
Page 8

On Monday February 25, 2008, the Evaluation Committee convened a meeting for the purpose of permitting each of the five (5) proposers to make a fifteen minute presentation, followed by an immediate question and answer period after each vendor.<sup>6</sup> Without question, the most active and vocal members of the Evaluation Committee were Mayor and Commissioner Lois Wexler and County Commissioner Josephus Eggleton. Both Commissioners focused almost exclusively all their questions, comments and concerns upon each vendor's experience implementing and designing "DAPP" solutions. Both Commissioner Eggleton and Mayor Wexler took pains to elicit concessions and explanatory statements from Petitioners (and even County Staff) which confirmed the fact that only Air IT had past or present experience implementing a DAPP solution. Commissioner Eggleton also systematically questioned each vendor on whether it had M/WBE participation on its team as well as the financial extent of such M/WBE's participation.

At the close of questioning the proposers were scored on a 100-point scale. Air IT received 562 total points; Infax, 504; Talgentra, 501; and Ultra EAS, 479.

#### e. The Technical Specifications

The RFP included detailed specifications as part of "Attachment A", including over 150 pages of detailed information as to the County's desired product, testing and implementation plan. According to the specifications, the purpose of the "DAPP" solution is to "allow multiple airlines to operate in the facility using their host software and a common set of compatible hardware increasing the flexibility and efficiency of the facility." Provided with the "DAPP" will be Common Use Self-Service (CUSS) kiosks that will be located at various locations throughout the campus to assist in the check-in function. Additionally, the "DAPP" was to provide 'transparent' access to each airline's native host application via the proposed solution.

These specifications, which were drafted by consultant CSC, specifically disavowed any reference to IATA standards as pertaining to the "DAPP". For example, Attachment A stated: "NOTE: These specifications define all functional requirements for the "DAPP" deployment at FLL. The current IATA initiative for development of a "CUPPS" standard (updated IATA RP 1797) does not apply to this RFP." Thus, the airport was specifically requesting a system that is experimental in nature and is NOT certified as an industry standard by IATA. As will be explained later in this letter, this is of particular importance because the specifications were drafted at a time in which FLL had no aviation director, by a consultant with questionable ties to the selected vendor, Air IT.

### III. THE PROTEST

<sup>6</sup> One of the five (5) vendors, Inter System USA, Inc. apparently declined to present to the Evaluation Committee on this day.

FLLDOC'S 529-178 2

SHULTS & BOWEN LLP

MIAMI FORT LAUDERDALE WEST PALM BEACH ORLANDO TAMPA TALLAHASSEE AMSTERDAM LONDON

Brenda J. Billingsley, Director  
Broward County Purchasing Division  
Page 9

a. The County Gave Undue Consideration to the DAPP Solution

As stated above, the DAPP solution represented only one of five (5) major components being considered by the County. However, it was clear from the County Selection Committee's questions, and reference to "its requested solution", that undue influence was placed upon the "DAPP", as opposed to the overall technical solution. By way of example, each vendor was asked by Mayor Wexler whether they "had experience installing our requested solution", and whether they had any experience "utilizing DAPP solutions". Likewise, members of the Selection Committee expressed hesitation selecting any vendor without the above-referenced experience, ignoring the fact that each solution had been tested and certified as compliant with the County specifications. Likewise, InFax enjoyed the recommendation of the County staff as the "best of breed" equipment at the "lowest price".

Moreover, the Selection Committee's analysis completely ignored the other components being purchased by the County, such as the AODB, E-Vids, LDCS, etc. For each of these components, the petitioners were far more qualified and competent than the selected vendor. For example, the Petitioner's market-share, when combined with SITA (whom did not make a presentation), for AODB Systems is well over 90%, with installations at virtually every major airport in the world. By comparison, Air IT has less than 1% of the global AODB market. Likewise, the Petitioners (including SITA) have designed and installed roughly 85% of "common use" terminals used world-wide. By comparison, Air IT has only a small fraction of "common use" installations made worldwide. For specific experience, please refer to the Petitioners' proposals, incorporated by reference to this protest.

Thus, it is clear that the County did not correctly or proportionately apply the evaluation criteria, of which a maximum of 20% of points awarded was to apply for "experience" with similar systems. This is particularly important, because the Petitioners were all "pre-qualified" as having sufficiently demonstrated the efficacy of their systems. The Petitioners all have dramatically greater experience with airport information systems generally, and "common use" systems specifically, yet certain members of the Selection Committee placed undue emphasis on experience with the actual DAPP proprietary system. Given the dramatic divergence of scores, and the relative inexperience of AirIT in delivering AODB, CUSS, EVIDS and ADCS systems, the scores for experience and qualifications are arbitrary, capricious and contrary to competition on their face. Likewise, the divergence in scoring by the County Commissioners (favoring Air IT) and the technical staff on the Selection Committee is indicative of the undue influence and importance given to the DAPP requirement.

This divergence in scoring is a critical concern, because the implicit requirement of a proprietary DAPP system appears to have "locked in" Air IT. Such a "lock in" is improper, because Broward County has an explicit requirement for open public procurement of government contracts. Accordingly, Section 21.53 of the Broward County Administrative Code requires that:

FTLDOCS 5294178 2

SHUTTS & BOWEN LLP

MIAMI FORT LAUDERDALE WEST PALM BEACH ORLANDO TAMPA TALLAHASSEE AMSTERDAM LONDON

Brenda J. Billingsley, Director  
Broward County Purchasing Division  
Page 10

The Director of Purchasing shall strive to assure that all specifications issued by the County provide for free and open competition among all vendors and preclude a lock-in of any brand or vendor, unless items are purchased under sole source or sole brand provisions. Any specifications may eliminate some vendors or brands if the vendor or brand does not meet the legitimate needs of the County. (1988-0180, 1-12-88)

Likewise, it is axiomatic that the government's specifications should not be so restrictive so as to unduly restrict competition. See American Biodyne, Inc. v. Agency for Health Care Admin., DOAH 94-6887BID (Recommended Order January 31, 1995) 1995 WL 1052934 (Fla. Div. Admin. Hrgs. 1995).

In this case, the County's proposed selection is arbitrary, capricious and contrary to the Broward County Procurement code because undue weight was placed upon the proprietary DAPP solution. Inter alia, by questioning whether each proposer had experience with "the specific DAPP system we requested", as asked by Mayor Wexler of each competitor, the County "locked in" a specific brand or vendor (AirIT) in violation of Section 21.53.

b. Evaluation Committee Failed To Reasonably Consider Whether Air IT Has Local Departure Control System (LCDS) Response to the RFP

The Evaluation Committee recommendation to the AIMS Project to Air IT cannot be sustained inasmuch as Air IT, in fact, does not offer all of the systems required under the RFP, namely the LCDS, which is one of the five sub-systems requested under the AIMS Project. Here, the Evaluation Committee either knew or reasonably should have known that despite its claims to the County, Air IT acknowledged via its publicly accessible web-site that it lacked any capacity or experience in providing a LCDS. See the Air IT web-site, <http://dst-usa.com/passenger-lcds.cfm>, which lists the Air IT's LDC solution as "coming soon".

c. Evaluation Committee Failed to Reasonably Consider Whether Air IT's "DAPP" Solution is the Industry Standard.

Because the Evaluation Committee spent nearly all of its question and answer period discrediting each Petitioner's lack of experience with the DAPP solution, it neglected to give even the slightest consideration of several representations made by Air IT concerning its own experience in providing the DAPP solution. First, the Evaluation Committee accepted, without question, Air IT's assertion that its DAPP solution represented a cutting edge solution for Terminal Equipment and that DAPP was "likely" to be certified by IATA in the next year. Second, the Committee also failed to make even a modest inquiry into Air IT's statement that the same version of DAPP is already installed at FLL, Terminal 4.

The Evaluation Committee either knew or reasonably should have known that, contrary to the Air IT's representation, that DAPP is not emerging as a uniform IATA standard, in actuality. DAPP's network centric architecture is (a) actually an Air IT proprietary system for which Air IT has had a pending patent application since June, 2004, and (b) far from being a "likely"

FTLDOCS 5294176.2

MIAMI      FORT LAUDERDALE      WEST PALM BEACH      SHUTTS & BOWEN LLP      ORLANDO      TAMPA      TALLAHASSEE      AMSTERDAM      LONDON

Brenda J. Billingsley, Director  
Broward County Purchasing Division  
Page 11

candidate for IATA approval, DAPP is actually a minor competitor to the emerging IATA standard known as Common Use Passenger Processing System ("CUPPS"), which is a server centric-based system solution. The CUPPS is more widely preferred by Airlines and Airports because, while it offers the same functionality that "DAPP" seeks to achieve (i.e. independent terminal login), it actually provides it through virtualization. DAPP, on the other hand, relies upon individual hard drive petitions for each potential airline user. The advantages of IATA's preferred CUPPS system are numerous, not the least of which is simpler application maintenance. Perhaps even more importantly, because CUPPS is server based, there is no need to reboot a computer each time a new operator logs in to the system to load a different partition of the hard drive. Likewise, with DAPP, each and every processing computer must be re-formatted (i.e. a new hard drive petition added) each time a new terminal operator is added to the airport, whereas a server-centric system can simply push updates out to the terminals.

Additionally, relative to Air IT's representations concerning the extent to which its DAPP solution is installed at FLL, the Evaluation Committee either knew or reasonably should have known that, in fact, Air IT's DAPP equipment has been installed in Terminal 4 (Spirit Airlines). However, minimal consideration by the Evaluation Committee would have disclosed that AirIT still has not completed a terminal emulator program to make DAPP fully compliant with the Spirit Airlines Terminal System. What is more, the Committee would have also learned that Air IT's version of DAPP that is currently installed at FLL *is not* even dynamic, that is - it is only utilized by a single airline. As it stands, no other airline at FLL can currently login to the DAPP system installed at Terminal 4. Finally, simple consideration by the Evaluation Committee of Air IT's statements, would also have revealed that Air IT have no Terminal Emulators for most airlines operating at FLL- including Spirit and Southwest Airlines. That means that Air IT will require significant engineering in order to make its DAPP workable at FLL. Instead, the Evaluation Committee was told by Air IT that it was buying the "exact same" product as is already installed at FLL, and that it required no additional engineering. These statements were patently and obviously false.

d. CSC Has Improper Ties to Air IT

Of particular importance for this procurement is the close tie between Convergent Strategies Consulting ("CSC") and Air IT. In each of the five (5) procurements in which CSC served as the consultant (FLL, Sacramento, San Jose<sup>7</sup>, Sarasota-Bradenton and Northwest Chicagoland) AirIT was the selected vendor, because the specifications are tailored to favor that company by including the proprietary "DAPP" specification and precluding use of CUPPS or CUTE (i.e. IATA certified) equipment.

<sup>7</sup> Interestingly, the specifications used for the FLL procurement were exactly the same as those used for the recent San Jose procurement for an AIMS system, which was won by AirIT. In fact, the specifications were actually stamped "San Jose International Airport".

Brenda J. Billingsley, Director  
Broward County Purchasing Division  
Page 12

This is because there is an unusual relationship between the companies, including an apparent financial conflict of interest. For example, at the recent ACI-NA Airport Council International and AAAE American Association Airport Executives trade shows, Jerry Olivier, the primary consultant of CSC actually worked on behalf of AirIT, selling and pitching AirIT products from the AirIT display booth. This gives rise to the inference that CSC is crafting specifications that lock-in its preferred vendor, AirIT. The resulting selection is thus the fruit of the poisonous tree: the County consultants' conflict of interest fatally tainted the procurement and any award based upon the specifications proffered is arbitrary, capricious and contrary to the County policy of fair and open procurements. See: 21.53 Broward County Administrative Code; Department of Transportation v. Groves-Watkins Constructors, 530 So. 2d 912 (Fla. 1988).

e. AirIT's System is Problem-plagued in Sacramento

It appears that the Selection Committee may have considered inaccurate information concerning the number of installed "DAPP" solutions, and their efficacy. For example, it has long been rumored that the AirIT solution is not yet operational in Sacramento Airport, and that Airport officials no longer expect that the system will actually work in a dynamic manner. Likewise, Air IT represented that it had made an installation in Philadelphia, yet that airport is not currently running the Air IT DAPP solution.

By comparison, the Petitioners collectively hold over 90% of the "common use" market, including the world's first "common use" installation in Hong Kong. The Petitioners collectively service hundreds of airlines and airports globally, while Air IT holds approximately 1% of the global market.

f. The County Illegally Considered Minority Participation

As stated above, on July 2, 2007 the County issued Addendum Number 2 which cancelled all references to a W/MBE program. Specifically, paragraph 3 stated: "Minority Women Business Enterprise (W/MBE) Program on pages 6 and 7 of 33 as well as W/MBE Forms in Attachment H are deleted."

This action came on the heels of a June 25, 2007 court order<sup>8</sup> restraining the County from utilizing race, ethnic or sex-based goals in connection with construction contracts. As a result of that order, the County suspended its entire W/MBE program, not just those contracts pertaining

<sup>8</sup> "During the stay period, the County shall not set any race, ethnic, or sex-based goals in connection with the awarding of new contracts, in the construction industry, funded only with County funds." See: Construction Industry of South Florida v. Broward County, Case No. 07-60374-CIV-COEN/SNOW, Order Granting Stay of Proceedings and Continuing Trial Date, July 25, 2007.

FTLDOCS 5294178 2

SHUTTS & BOWEN LLP

MIAMI FORT LAUDERDALE WEST PALM BEACH ORLANDO TAMPA TALLAHASSEE AMSTERDAM LONDON

Brenda J. Billingsley, Director  
Broward County Purchasing Division  
Page 13

to construction contracts. That court order made it clear that it was not only preventing the direct use of race or ethnic preference, but also the indirect or implicit use of such preferences.<sup>9</sup>

Thus, the specifications of the RFP included no provision for the consideration of W/MBE participation, and any consideration of such represented an illegal ex-parte consideration. Moreover, any such consideration for this procurement may represent a violation of the Court Order restraining the County from considering race or ethnic preferences in construction contracts. In this case the contract calls for extensive millwork, electrical and network construction activities and requires a performance bond typically associated with construction contracts. Likewise, the only W/MBE contractor reported (by AirIT) was for electrical subcontractor at FLL.

In this case, the County violated the terms of the RFP when Selection Committee Member Commission Joseph Eggleton inquired with each contractor whether it had included minority participation in its team. In this case, the sole company reporting W/MBE partners was AirIT, which agreed to 20% W/MBE participation by electricians and received undue and unknown preference. The inquiry by Commissioner Eggleton represents exactly the type of indirect consideration (i.e. not included in the RFP specifications) that was precluded by the County's agreement to halt its W/MBE program.

#### Conclusion

In sum, it is clear that this procurement is fatally flawed for a number of reasons: the County gave undue weight to the "DAPP" solution in violation of the terms of the RFP; the RFP incorporated a proprietary system locking in one vendor without competition; the specifications were tainted by a conflict of interest; the County considered W/MBE consideration in violation of a Court Order and Addendum 2 to the RFP; and also because AirIT misrepresented its experience and is non-responsive to the RFP. As such, we request that AirIT be rejected as non-responsive and request that the Selection Committee be reconvened to re-score the proposals, or to direct that all bids be rejected for this procurement.

<sup>9</sup> See: Case No. 07-60374-CIV-COHN/SNOW at p. 4: "The stay shall also not preclude Plaintiffs, at any time, from seeking preliminary injunctive relief in connection with procurement activities if the Defendants, *directly or indirectly, explicitly or implicitly*, seek to use race-, ethnic-, or sex-conscious measures in construction contracting." (emphasis added).

FTLDOC'S 5294178 2

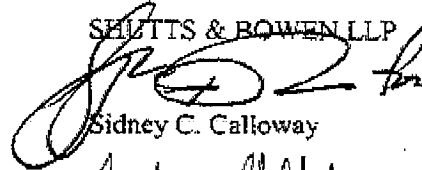

SHUTTS & BOWEN LLP

MIAMI FORT LAUDERDALE WEST PALM BEACH ORLANDO TAMPA GAINESVILLE AMSTERDAM LONDON

Brenda J. Billingsley, Director  
Broward County Purchasing Division  
Page 14

Thank you for your consideration of this protest.

Sincerely,

SHUTTS & BOWEN LLP  
  
Sidney C. Calloway  
  
Joseph M. Goldstein

FTLDOC'S 5294178 2

---

MIAMI FORT LAUDERDALE WEST PALM BEACH ORLANDO TAMPA TALLAHASSEE AMSTERDAM LONDON