



LSN GOVERNMENT AFFAIRS
Local • State • National

March 7, 2014

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

RE: THREE (3) DAY LETTER PERTAINING TO PROPOSED RECOMMENDATION OF RANKING – RFP NO.: X1159616P1 PORT EVERGLADES ARCHITECTURAL/ ENGINEERING SERVICES FOR THE SEAPORT ENGINEERING AND CONSTRUCTION DIVISION (“RFP”)

Dear Ms. Billingsley:

Our firm represents the firm of Bermello Ajamil & Partners, Inc. (“B&A”), an aggrieved proposer under the referenced RFP. This letter is written pursuant to Sec. 21.84(f) of the Broward County Procurement Code (“Procurement Code”) within three (3) business days of the posting (See Exhibit #1) in order to raise issues regarding the RFP and the Proposed Recommendation of Ranking. Kindly ensure that this letter and attachments are included in the information to be provided to the Board of County Commissioners at the time when the ranking is placed on the agenda for Commission consideration.

This letter focuses on what B&A believes is unfair and/or incorrect information and other new information that should be considered by the Commission in the course of its deliberations and discussions of the Proposed Ranking.

This RFP seeks to select a vendor who will combine the consulting architectural and engineering services for Port Everglades. For 19 years, B&A has been the architectural consultant at the Port and, by all accounts, has provided outstanding service. Likewise, Craven Thompson & Associates, the engineering sub to B&A on this RFP, has served as consulting engineer to the Port since 1995 and is also very highly regarded. A chart of the B&A team and its Port experience is set forth below.

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Firm Member	Team Roles	Years With Port	Successful Port Projects
Bermello, Ajamil & Partners, Inc. (B&A)	PM, Architecture Lead, Planning, CA Landscape, LEED, Interiors, BIM	18 years	83 projects
Craven Thompson & Associates (CTA)	Dep. PM, Engineering Lead, Civil, GIS Survey	25 years	75 projects
Tierra South Florida (CBE)	Geotechnical/Materials Testing	14 years	50 projects
Hammond & Associates (CBE)	M/E/P & Fire Protection	12 years	25 projects
Hillers Electrical Engineering (CBE)	Industrial M/E/P	18 years	18 projects
Kimberly Ann Brown & Associates (KABA)(CBE)	Environmental Engineering	5 years	20 projects
Schneider Engineering	Marine Engineering	20 years	20 projects
S&F Engineering (CBE)	Structural Engineering (Buildings)	FLL – 12 years PE – 1 year	FLL/Cty – 70 projects
Lakdas Yohalem Engineering (CBE)	Structural Engineering (threshold Maritime)	25 years	100+ projects
Industrial Divers Corporation	Underwater Investigations, Survey	25 years	150 project divers

In this RFP, Broward County seeks to join the two services together into a single RFP/Contract and, for that reason, Craven Thompson & Associates is a team member under B&A on this submittal.

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The CBE goal on this RFP is 26%. The B&A team reflects 30% CBE participation.

In the Proposed Recommendation of Ranking, the firm of BEA Architects was ranked #1. The scoring showed BEA Architects at 438 points and B&A at 429 points. The next closest firm, Calvin Giordano & Associates, Inc. had 366 points. Thus, B&A is proposed to be ranked #2.

Several issues emerged in the process that are addressed in this letter: the weighted RFP Evaluation Criteria and the scoring that raise very serious issues of fairness. These issues rise to the level of policy issues that should be considered by the County Commission because: they may violate state law; they could be contrary to and inappropriately distort the evaluation and the Broward/Miami-Dade Local Preference Agreement; they distort the selection process; they penalize the most qualified firm; and, if left unaddressed in this and future RFPs, will unfairly discriminate against and penalize local firms (both Prime and subs) at a time when the County is committed to increased local jobs. Consequently, for reasons set forth herein, we request that the County Commission reject all proposers and clarify the issues for a new procurement of these services.

1. Consultants Competitive Negotiations Act.

Sec. 287.055, Florida Statutes, is known as the Consultants Competitive Negotiations Act ("CCNA"). By law, it is mandated that when the County seeks to procure these kinds of architectural and engineering services, the CCNA process should be used. Sec. 21.85 of the Procurement Code also references CCNA as the basis for procuring these kinds of professional services.

CCNA was not utilized in this RFP. Attached as Exhibit 2 is a sheet from the RFP. The CCNA box is not checked. Thus, notwithstanding, the mandate of state law and the Broward County Procurement Code, CCNA was not used.

Historically, when the County utilized CCNA as a process to acquire these kinds of services, the Selection process was Request for Letters of Interest ("RLI") and the Selection Committee would first shortlist several firms, then hear presentations at a separate meeting, and then vote on a ranking. This RFP departed from the County method for CCNA selections where historically the Selection Committee uses a numerical ranking, e.g., #1 for top firm, #2 for second ranked firm, etc. Under this traditional selection process, the lowest total wins.

In this RFP, the staff proffered a weighted ranking system, as is typical with RFPs. However, in addition to the subjective evaluation criteria such as "experience," this Evaluation Criteria added two (2) mandatory non-subjective criteria that were pre-scored by the Purchasing staff. The RFP's Evaluation Criteria are attached as Exhibit 3. As will be noted in more detail below, each of these non-subjective categories of criteria raise problems and should be discarded by the County Commission.

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When this RFP was approved without discussion by the Commission as Item #35 on the November 5, 2013 Consent Agenda (see attached Exhibit #4 to this letter), the Summary Explanation/Background stated: “The RFP method provides for predefined **evaluation criteria for ranking firms based upon the required specialized technical expertise.**” (Emphasis added).

In point of fact, the two non-subjective criteria dealt with matters having nothing whatsoever to do with “specialized technical expertise.” The two questionable categories were as follows:

- #8 Distance from company office dedicated to this contract to the Port (0-5 points)
- #9 Volume of Work on Projects in the last 5 years (0-10 points)

It is important to note that while CCNA and the Procurement Code allow Volume of Work to be a factor, CCNA expressly states in Sec. 287.055(4)(b), Florida Statutes, that consideration of volume of work previously awarded should “**not violate the principle of selection of the most highly qualified firms.**” (Emphasis added).

It is important to note that “Volume of Work over the last five (5) years” is expressly authorized as the third tier tiebreaker criteria under your Procurement Code and in this RFP.

1. Location of business in Broward County, if both have, go to #2.
2. Domestic Partnership Program in place, if both have, go to #3.
3. Volume of Work Over the Last Five Years

In point of fact, where there is a tie, utilizing these tiebreaker criteria in this order makes sense because the firms have been deemed equally highly qualified. So Volume of Work as a tiebreaker is consistent with CCNA.

However, to utilize Volume of Work as a separate 10 point evaluation criteria violates the letter and the spirit of CCNA. Moreover, it is inconsistent with the express staff agenda explanation comments of seeking to select the most highly qualified firm with the needed “specialized technical expertise.”

2. The Volume of Work Evaluation Criteria.

The use of Volume of Work as a non-subjective Evaluation Criteria that can award, as here, 50 points to BEA Architects and zero points to B&A is fundamentally unfair and wrong. As the scoring showed, if this Evaluation Criteria were deleted, the scoring totals would be: B&A – 429 points (#1) and BEA Architects – 388 points. Moreover, the deletion of this so-called “new” Evaluation Criterion (Volume of Work) would have resulted in a ranking based on the most highly qualified firm (as required by CCNA) and

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the “required specialized technical expertise” (as the Commission was told would be the case with the new Evaluation Criteria). Use of the Volume of Work criteria seriously distorted the outcome and is unfair and inappropriate.

The “Volume of Work” criteria should be left to the tiebreaker realm and not injected into the point system of the Evaluation Criteria.

This case is a good example of how the fixed category of Volume of Work becomes outcome-determinative and ignores the clear mandate of selecting the most qualified firm.

Here we see a process that is extremely biased and unfair because the most qualified local team is severely penalized for having performed outstanding service with the precise skill set and intimate knowledge of Port Everglades for a period of years.

Note that in every subjective category of the Evaluation Criteria, B&A scored above or even with BEA Architects. Yet the non-subjective category of work volume over five years gave BEA Architects 50 points and B&A zero.

Beyond that is the fact that utilizing a dollar volume of work is an amazingly distorted picture of past service or fees earned by B&A. Why is that? Because in an “on-call” contract B&A as well as Craven Thompson & Associates were called on to utilize or hire sub-contractors for specialized projects in order to save time and money in servicing Port needs. Thus, the vast majority of those fees were passed directly through the prime contractor to the subs. Yet, the prime is now penalized for millions of dollars that it never received. The following chart shows this point.

Firms	B&A Monies received from Broward County Projects	PCT of Total to B&A	Sub Consultant Monies submitted including CBE firms	PCT of Total to Sub Consultants	TOTAL
Bermello Ajamil & Partners (B&A as Prime)	\$4,134,537.86	43.9%	\$5,273,514.14	56.1%	\$9,408,052.00
Craven Thompson & Associates (B&A as Arch. Sub)	\$ 201,597.75	40.4%	\$ 297,584.25	59.6%	\$ 499,182.00
TOTALS	\$4,336,135.61	43.8%	\$5,571,098.39	56.2%	\$9,907,234.00

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In addition, if this new Volume of Work Over 5 Years Criteria is continued to be used by Broward County, it will distort procurements and drastically hurt local companies. These qualified companies are based in Broward, pay good salaries to their employees most of whom live, pay taxes and raise their families in Broward County; and yet, use of the Volume of Work as a fundamental selection evaluation criterion weighted as it is, will cause our local companies who have performed well for Broward County to be shoved aside so that out-of-county companies can win by application of this new category in the selection criteria.

You will likely hear from many of these other local companies who are just recovering from the worst recession in 70 years. Just when things are starting to look brighter, this is not what Broward County or these companies need.

3. Local Preference vs. Office Distance to Project.

Evaluation Criteria #8 establishes another new non-subjective category. See Exhibit 3. It creates a numerical score worth up to five (5) points for the proximity of the “exact office location responsible for this project to Port Everglades.” This is definitely not part of CCNA. While in this case, it appears all five proposers were awarded five points, this Evaluation Criteria also fails to address the “specialized technical expertise” that was mentioned in the Agenda Report when the RFP was approved.

Moreover, if a company is within 50 miles, it gets the full five points. So a company based in Palm Beach County, which has declined to sign a reciprocity agreement with Broward County, can get five points, but a company based more than 50 miles away in south Miami-Dade County where a local preference reciprocity agreement exists will not get five points.

Indeed, it would seem that the Local Preference Ordinance and reciprocity agreements could in fact be affected by this new evaluation criteria. On the one hand, a company based in Boca Raton could receive the five (5) points but is not “local” as defined by your Code or a Reciprocity Agreement on Local Preference. However, a firm based in Homestead vs. a Boca Raton based firm could enjoy the application of the selection by local preference if its point total were within 5% of the Boca Raton company.

As you can see, the introduction of this category of Evaluation Criteria, while not affecting this procurement, could clearly be outcome determinative in the future and could possibly foster seeds of unrest on the Miami-Dade/Broward Reciprocity Agreement on Local Preference.

In hindsight, this new scoring system was not fully vetted and was never discussed in an open public meeting by the Commission, staff, vendors or the general public.

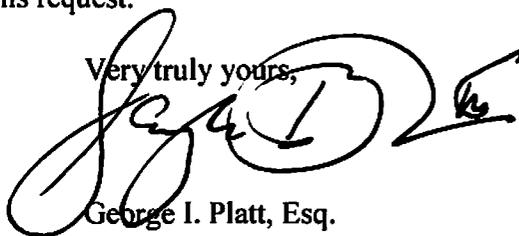
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This RFP procurement is flawed, tainted, distorted and unfair for the reasons set forth above. On behalf of B&A, we respectfully request that the County Commission take appropriate action to correct the Evaluation Criteria either by rejecting all proposals and starting over again with specific direction to staff or by sending this matter back for further consideration by the Evaluation Committee without the objectionable Evaluation Criteria. I urge you to seek the guidance of your County Attorney as to what all of the options are at this point in time.

On behalf of Bermello Ajamil & Partners, Inc., I hereby attest that the matters and statements contained herein are accurate, true, and correct. Moreover, on behalf of my client, we acknowledge that the determination of inaccurate, untruthful, or incorrect statements herein may serve as a basis for debarment.

Thank you for your consideration of this request.

Very truly yours,

A handwritten signature in black ink, appearing to read "George I. Platt", with a stylized flourish extending to the right.

George I. Platt, Esq.

Attachments

**cc: Ms. Joni Armstrong Coffey, County Attorney
Mr. John Horne, Project Manager
Mr. Glenn Miller, Assistant County Attorney
Mr. Mark Ittel, Senior Vice President, Partner in Charge
Bermello Ajamil & Partners, Inc.
Mr. Luis Ajamil, Bermello Ajamil & Partners, Inc.
Mr. Tom McDonald, Craven Thompson & Associates**



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EXHIBITS

1. Posting Notice of Proposed Recommended Ranking
2. Sheet from RFP Showing CCNA Box Not Checked
3. RFP Weighted Evaluation Criteria
4. Agenda Item #35 from November 5, 2013 County Commission Meeting
Agenda

Microsoft Translator | Google Translate

Enter search words

SEARCH

Government Residents Business Visitors Employees Resources Careers

Broward County > Purchasing > Solicitation Recommendations > Recommendation of Ranking

Printer Friendly

- About Us
 - Vision and Mission Statement
 - Contact Information
 - How to Do Business with Broward County
- Solicitation Preparation Guidelines
- Committee Appointment
- Pre-Advertisement Notices
- Pre-Solicitation Meetings
- RFI/RFP Supporting Documents Repository
- Requests for Information
- Current Solicitations List
- Airport Concessions
- Public Surplus Sale
- Sponsorships
- Solicitation Recommendations
 - Recommendations For Award
 - Recommendation of Ranking
- Solicitation Results
- Vendor Information
 - Vendor Registration
- Sub-Contractor Opportunities

Recommendation of Ranking or Rating

Proposed Recommendations to the Board of County Commissioners/Director of Purchasing

Solicitation Number	Solicitation Title (click to view)	Staff's Proposed Ranking/Rating	Goals/ Sub Vendors (click to view)	Posted Date	Release Date
X1159616P1	Architectural/Engineering Services for the Seaport Engineering and Construction Division (PDF)	1. BEA Architects, Inc. 2. Bermello, Ajamil and Partners, Inc. 3. Calvin, Giordano and Associates, Inc. 4. DeRose Design Consultants, inc. 5. Kosinski Architecture, Inc.	26%	3/6/2014	3/10/2014

Final Recommendations to the Board of County Commissioners/Director of Purchasing

Solicitation Number	Solicitation Title (click to view)	Staff's Ranking/Rating	Goals/ Sub Vendors (click to view)	Posted Date	Release Date
R1147317P1	Local Government UHF Trunking 400 MHz Radio System (PDF)	Control Communications		3/5/2014	3/11/2014

For a complete list of all solicitation results and awards please visit the solicitation results page.

Required Plug-ins: Adobe® Reader®, Microsoft Word Reader®, Microsoft Excel Reader®



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Broward County Purchasing Division

115 S. Andrews Avenue, Room 212
Fort Lauderdale, FL 33301
(954) 357-6065 FAX (954) 357-8535

Request for Proposals (RFP)

RFP Number: X1159616P1

RFP Name: Architectural/Engineering Services for the
Seaport Engineering and Construction Division

Procurement Authority

Unchecked boxes do not apply to this solicitation.

Pursuant to Florida Statutes, Chapter 287.055 (Consultants' Competitive Negotiation Act), the Broward County Commission invites qualified firms to submit Proposals for consideration to provide Professional Consulting Services on the following project.

Non-Continuing Contract: (Check only one box)

Professional services needed for a construction project where the construction costs exceed \$ 325,000

Professional services needed for a planning or study activity where the fee for the professional services exceed \$ 35,000

Continuing Contract :(Check only one box)

Professional services needed for projects in which construction costs do not to exceed \$2 million

Professional services needed for study activities when the fee for such professional service does not exceed \$ 200,000

Professional services needed for work of a specified nature

Design-Build: (Check only one box)

Qualification-Based with a Guaranteed Maximum Price and a Guaranteed Completion Date

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Evaluation Criteria

The following list of Evaluation Criteria total 100 points. Subsequent pages will further detail and define the Evaluation Criteria which are summarized with their numerical point ranges.

<p>1. Describe the qualifications and relevant experience of the Project Manager and all key personnel that are most likely to be assigned to this proposed project. Include resumes for the Project Manager and all key personnel described. Include the qualifications and relevant experience of all sub-consultants to be used in this project. Provide a comprehensive organizational chart including all members of the proposed project team, i.e., Land Surveying, Geotechnical Engineering, Civil Engineering, Transportation and Traffic Engineering, Environmental Protection, Landscape Architecture, Structural Engineering, Interior Design, Lighting Design, Fire Protection, Plumbing, Mechanical Engineering, Electrical Engineering, Telecommunications and Data Engineering, Building Information Modeling (BIM) and LEED/AP related services. Describe the Prime Proposer's approach to the project. Include how the Prime Proposer will use sub-consultants in the project.</p>	<p>20</p>
<p>2. Describe comparable experience within a seaport environment during the past 10 years coordinating a broad based multi-disciplined project working with multiple diverse stakeholders in developing an overall project plan including environmental design, engineering and construction which provided the ability to maintain continuity of operations during the implementation.</p>	<p>20</p>
<p>3. Provide previous experience within a maritime environment. Include active and completed projects related to cruise and/or cargo terminal expansion/construction, marine infrastructure, dredging, roadway and utility construction within a seaport environment..</p>	<p>10</p>
<p>4. Provide evidence of knowledge and experience working with the Florida Building Code in conjunction with the governing municipalities throughout Broward County and other agencies such as the Federal Emergency Management Agency (FEMA)..</p>	<p>10</p>
<p>5. Describe your firm's GIS/CAD capabilities and projects completed related to utility databases and atlas creation. Include experience with Environmental Systems Research Institute (ESRI) software.</p>	<p>5</p>
<p>6. Describe your LEED experience and knowledge. Provide a comprehensive list of current projects that LEED certification is being pursued and completed projects that successfully obtained LEED certification. In addition, provide the credentials of the LEED accredited professionals employed by your firm and on the proposed project team. Provide a list of projects your firm is currently producing and has completed using Building Information Modeling (BIM) .</p>	<p>10</p>



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<p>7. This solicitation is for the award of a continuing contract. The specific projects requiring professional services under the contract have not yet been identified. However, in general, please explain your firm's approach in meeting "project specific" time and budget requirements and indicate whether your firm is committed to meet these requirements when identified under this contract.</p>	5
<p>8. Identify the exact office location responsible for this project.</p> <p>Miles from _____ (Exact Address) = Numerical Score</p> <p>0-50 Miles = 5 Points</p> <p>51-100 Miles = 3 Points</p> <p>Over 100 Miles = 0 Points</p>	5
<p>9. List all projects, including project number, with Broward County during the past five (5) years – completed and active, with regard to the Prime Proposer only. Volume of Work also includes Amendments, Purchase Orders, Change Orders and Work Authorizations. In addition, list all projected projects that your firm will be working on in the near future. Projected projects will be defined as a project(s) that your firm has been awarded a contract but the Notice To Proceed has not been issued. Identify any projects that your firm worked on concurrently. Describe your approach in managing these projects. Were there or will there be any challenges for any of the listed projects? If so describe how your firm dealt or will deal with the challenges.</p> <p>\$0 - \$150,000 = 10 Points</p> <p>\$150,001 - \$300,000 = 8 Points</p> <p>\$300,001 - \$500,000 = 6 Points</p> <p>\$500,001 - \$750,000 = 4 Points</p> <p>\$750,001 - \$1,000,000 = 2 Points</p> <p>Over \$1,000,000 = 0 Points</p>	10
<p>10. Provide named references and contact information, including phone number and e-mail address, for all of your cited projects. Note: Broward County Performance Evaluations will be considered in the evaluation of proposers. The Project Manager will provide the Performance Evaluations to the Evaluation Committee Members.</p>	5
<p>TOTAL POINTS</p>	100

Meeting Agendas

Print

Return

AI- 15293

35.

Broward County Commission Regular Meeting

Meeting Date: 11/05/2013

Director's Name: Scott G. Miller

Department: Finance & Administrative Services **Division:** Purchasing

Information

Requested Action

MOTION TO APPROVE Request for Proposals (RFP) No. X1159616P1, Architectural/Engineering Services for the Seaport Engineering and Construction Division. **(Commission District 7)**

(Transferred to the Consent Agenda.)

ACTION: (T-10:34 AM) Approved.

VOTE: 8-0. Commissioner Ritter was not present.

Why Action is Necessary

Board approval is required for Request for Proposals.

What Action Accomplishes

Approves a Request for Proposals solicitation to engage the services of a qualified firm to provide comprehensive professional services on a continuing term basis for remodeling, renovation and new construction for various facility types located within the Port Everglades Jurisdictional area.

Is this Action Goal Related

Established Commission Goal

Previous Action Taken

None

Summary Explanation/ Background

THE PURCHASING DIVISION AND THE PUBLIC WORKS DEPARTMENT/SEAPORT ENGINEERING AND CONSTRUCTION DIVISION RECOMMEND APPROVAL OF THE ABOVE MOTION.

This item supports the Board's Vision of "Unlimited Economic Opportunities"; its Goal No. 3. "Increase the economic strength and impact of Port Everglades, the Broward County Convention Center and the Fort Lauderdale-Hollywood International Airport in a sustainable manner balancing economy, environment and the community".

The Office of Economic and Small Business Development established a County Business Enterprise participation goal of 26 % for this project (Exhibit 2).

The purpose of this solicitation is to engage the services of a qualified firm to provide comprehensive professional services on a continuing term basis for remodeling, renovation and new construction at yet to be determined sites in Port Everglades. The project will include comprehensive architectural and/or engineering services on a project

Exhibit 4

specific basis.

The Request for Proposals procurement method was selected for this project to best serve the County with additional evaluation criteria other than price. The RFP method provides for predefined evaluation criteria for ranking of firms based upon the required specialized technical expertise.

Fiscal Impact

Fiscal Impact/Cost Summary:

Funding for each requirement will be obtained by the appropriate source at the time of release.

RQM No. CPD0717130000000017; Folder No. 1159616

Attachments

Exhibit 1 - RFP No. X1159616P1

Exhibit 2 - Goal Memorandum dated June 10, 2013
