



OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY

CONTRACT OVERSIGHT NOTIFICATION (2012-N-0006)

ISSUE DATE: SEPTEMBER 7, 2012

Sheryl G. Steckler
Inspector General

"Enhancing Public Trust in Government"

RFP No. 2012-14 Telemetry System Improvements

ISSUES

Office of Inspector General (OIG) staff attended two selection committee meetings pursuant to an advertisement for telemetry system improvements by the Town of Palm Beach (Town). The OIG found that: (a) the Town did not follow policies/procedures established in its Purchasing Policy and Procedures Manual (Purchasing Policy); and, (b) failure to have complete level of performance specifications caused delays in the process that could have jeopardized the completion of the project by the established deadline of Dec 31, 2012 set by the Federal Communications Commission (FCC).

The Town is upgrading the telemetry system for its water pump stations to comply with the Federal Communications Commission's 2013 narrow banding mandate to change from 25 MHZ to 12.5 KHZ. In situations involving the acquisition of complex equipment or systems, it is not uncommon for a municipality to engage the services of a consultant to assist in defining clear, concise and complete specifications. Due to the complexity of its telemetry system improvements project, the Town authorized a Purchase Order (PO)¹ under the Town's existing contract with Jacobs Project Management Co. ("Consultant") to develop a Request for Proposal (RFP) for Telemetry System Improvements.

The Consultant's proposal, dated October 26, 2011 (Attachment A), states that they will "provide a Request for Proposal (RFP) package that can be used to purchase services and materials to upgrade the current Supervisory Control and Data (SCADA) system in use by Utility Department." Furthermore, the proposal outlines four separate tasks to be performed, one of which states, in part, the following: **"... ensure all the information included in the RFP is current, and proper technical information is provided in order for the Town to receive accurate cost proposals. We will also work alongside with Purchasing to ensure that all the Town's latest policy's [sic] are followed (bold added)."** Based on the content of the Consultant's proposal, the Town issued a PO² on December 9, 2011 (Attachment B) for "Telemetry & Radio Consulting

¹ The Town's Purchasing Policy defines a purchase order as a, "Written authorization for the purchase of equipment or services containing all terms for that purchase prepared by the Purchasing Department."

² The PO issued to Jacobs Project Management Co., authorized payment of \$44,440.00 for the tasks identified in the October 26, 2011, proposal letter to the Town.

Services.” It is noted, the PO contains specific language incorporating the Consultant’s October 26 proposal and the services performed are directly related to the issuance of RFP No. 2012-14 titled, “Telemetry System Improvements.”

On March 4, 2012, the Town issued RFP No. 2012-14 for its telemetry system improvement project. The “Scope of Services” section of the RFP specifies brand named equipment such as “Motorola MOSCAD-M RTUs” and “CalAmp SC Viper” radios “or equivalent”, rather than level of performance specifications³ as required by the Town’s Purchasing Policy.

The Town formed a selection committee to review, evaluate, and score the three responses to the RFP. On April 12, 2012, the selection committee met to review the proposals with plans to evaluate and score them at a subsequent meeting. Two main issues discussed at this meeting were: 1) One proposer (supplying Motorola equipment) did not submit the required Bid Bond therefore was declared non-responsive by the purchasing staff; and, 2) One proposer was providing an equivalent solution to the Motorola equipment.

On April 26, 2012, the committee met again to evaluate and score the proposals. During the meeting the waiver of Bid Bond requirement for the proposer that did not submit this document was discussed and subsequently sent to the Town’s attorney for a legal interpretation of the RFP requirements. The possibility to rebid and sole source the project with Motorola equipment was also considered at the meeting, but was deemed a nonviable option due to the time constraints of the project. Moreover, it was determined that the Motorola equipment was the most expensive option. Having two proposals to consider, the committee asked the Consultant for his opinion regarding the overall capabilities of the equivalent equipment. The Consultant mentioned that the equivalent option works exactly as the Motorola system; however, there were some uncertainties regarding the equivalent equipment’s performance during a hurricane. He also stated that the equivalent equipment was very reliable. The committee, after evaluating and scoring the proposals, determined that the top ranked firm was the proposer who would be using equipment equivalent to the brand names specified in the RFP. They then agreed to reconvene for further discussion of the outstanding issues.

On May 25, 2012, the committee met again to discuss the issues pending from the previous meetings. The purchasing agent informed the selection committee that per the Town’s attorney, failure to submit a Bid Bond is a requirement that could not be waived. Thus, one of the three proposals was deemed to be non-responsive. The selection committee was also made aware by one of the Town’s electrical technicians about the criticality of the data recording capacity and the possibility to have a time stamp for each record, especially during a hurricane event. He further mentioned the fact that this requirement was not addressed in the RFP because this feature was available in the Motorola equipment. This comment brought some concerns to the committee

³ For example, the RFP could have listed the minimum level of performance specification for “power” as: “9-30 Vdc; 150mA @ 14 Vdc without radio; 2.5A max @ 14 Vdc with int. or ext. radio”; and, the minimum level of performance specification for “digital inputs” as: “30Vdc max”.

members, specifically in determining whether the equipment would satisfy the Town's needs during a hurricane emergency when the data recording capacity becomes critical. The committee determined that it would be necessary to have all the specific technical information available to make an educated decision; therefore, they agreed to send the top ranked proposer a list of questions asking for more specific information, and to subsequently reconvene with the proposer to discuss the new information.

On June 5, 2012, the committee reconvened with the top ranked proposer to discuss the equivalent equipment's data recording capacity. At the conclusion of the meeting, the proposer was provided one day to submit detailed specifications to the Town concerning the equivalent equipment's data recording capacity. Although the proposer submitted the required information, and the selection committee found the information to be sufficient to meet the Town's needs, the Town's purchasing staff advised the selection committee not to consider this information as part of the selection process because it was not addressed in the RFP. The committee then reaffirmed their recommendation of award to the top ranked proposer.

OIG staff met with the Consultant to review the process they followed in developing the RFP specifications. The Consultant stated that he attended several meetings with the Town's Public Works and Information Systems departments' staff to understand their viewpoint and discuss the specifications required to upgrade the telemetry system equipment. Thereafter, the Consultant and Town staff representatives decided the RFP would identify brand names of the equipment, specifically the Town's current equipment, Motorola. The reason behind this decision was the great conviction expressed by Town staff representatives on the reliability of their Motorola equipment. After further discussions regarding brand names, both parties agreed to include "or equivalent" in an attempt to not limit competition.

The OIG's review determined that the Town's user departments and Consultant did not provide the complete technical and level of performance specifications necessary for inclusion in the RFP document as required in the Town's Purchasing Policy and Consultant's contract. Specifically, Section 4-3.4 of the Purchasing Policy provides guidance to Town user departments involved in the procurement process. Therein it states each department is responsible for developing specifications that are "clear, concise, fair and unrestricted." Moreover, when procuring goods and services the Purchasing Policy requires the use of a level of performance specification. Furthermore, Section 6-5, titled Responsibility for Specifications, states; "The preparation of specifications is the responsibility of the Town Department requesting the proposed purchase with the Purchasing Division's advice and assistance. Specifications shall permit competition to the maximum extent possible. In general, **specifications shall define the level of performance required rather than a specific brand name (bold added)**. Specifications shall be as clear and concise as possible."

In summary, the selection committee held two additional meetings to the normally scheduled meetings (May 25, 2012 and June 5, 2012) in order to have a clear understanding of the capabilities of the equivalent equipment. Comprehensive technical

specifications provide all proposers the precise needs relating to the procurement and facilitate equitable and economic competition. The use of the term "equivalent" as opposed to comprehensive and standardized information can result in subjective interpretation of the technical requirements. By neglecting to follow the provisions outlined in the Town's Purchasing Policy and the Consultant's contract requiring the use of complete technical and level of performance specifications, the Town's user departments and Consultant caused unnecessary delays which could have jeopardized project completion by Dec 31, 2012, as set by the FCC.

RECOMMENDATION

The Town should adhere to its established Purchasing Policy and Procedures Manual and ensure that RFP specifications are: (a) complete, clear, concise, fair and unrestricted; and, (b) should define, the level of performance required rather than listing a specific brand name.

RESPONSE FROM MANAGEMENT

The Town of Palm Beach Manager provided the following response to the OIG Notification 2012-N-0006:

"We appreciate the IG's review and advice on this matter. We agree that the dispute that occurred regarding this procurement resulted from (1) the RFP containing product-based specifications rather than performance-based specifications and (2) a bidder's confusion about the requirement to submit a bid bond. We will clarify the bid bond language for all future RFPs to ensure that confusion does not recur. We also will use performance-based specifications for all future RFPs except when unusual circumstances indicate that a product-based specification better meets the Town's needs for a particular procurement (e.g. when a prior competitive performance-based process has resulted in product standardization, or when use or maintenance considerations make it more cost effective for the Town to specify a particular product). In those cases, we will document the reason for using the product-based approach and will, of course, comply with all other requirements of the law and the Town's Purchasing Manual. Finally, as it relates to RFP No. 2012-14, Telemetry System Improvements, staff is recommending that the Town Council reject all bids. If Town Council approves that recommendation at the September 11 Town Council meeting, staff will proceed to re-write the RFP with performance-based specifications and will conduct an entirely new procurement process for this project."

ATTACHMENT A



3300 PGA Blvd,
Suite 780
Palm Beach Gardens, FL 33410
1.561.799.3855 Fax 1.561.799.6579

October 26, 2011

The Town of Palm Beach Public Works Department
951 Old Okeechobee Road, Suite "A"
West Palm Beach, FL 33401
Attn: Mr. Erik Brown

Subject: Proposal for Telemetry System Upgrade Study Review

Dear Erik:

Jacobs appreciates the opportunity to provide the Town of Palm Beach (Town) with a proposal to provide a Request for Proposal (RFP) package that can be used to purchase services and materials to upgrade the current Supervisory Control and Data Acquisition (SCADA) system in use by the Utility Department. We will review the findings and recommendations provided by Kimley-Horn & Associates (KHA) in their Telemetry System Upgrade Study and use documents provided by the City of Boynton Beach as the basis for this RFP. This work will also address issues pertaining to the narrowbanding of radios used by the Town, both for voice and data.

SCOPE OF SERVICES

- Task 1: Jacobs will review the Telemetry System Upgrade Study provided by KHA and utilize documentation provided by the City of Boynton Beach in order to provide the Town with an RFP document to purchase a system that meets all of the FCC requirements for narrowbanding for their data radios. We will meet with staff and visit sites to ensure all information included in the RFP is current, and proper technical information is provided in order for the Town to receive accurate cost proposals. We will also work alongside Purchasing to ensure that all of the Town's latest policy's are followed.
- Task 2: Jacobs will review the proposals along with Town staff and offer recommendations for short listing and presentations. We will assist the Town with presentations and once they are completed, offer a recommendation for award.
- Task 3: Jacobs will review the voice radios currently being used by the Town Public Works Department and provide recommendations as to what is needed to comply with the FCC narrowbanding requirements.
- Task 4: Jacobs has budgeted to attend four (4) meetings as necessary to accomplish the above tasks.

SCHEDULE

Jacobs can complete Task 1 within 5 weeks from receiving a Notice to Proceed. We will complete Task 3 within 3 weeks from NTP. We will complete Tasks 2 & 4 after bids are received, reviewed and a recommendation for award is provided.

COMPENSATION

Jacobs will provide the above services for total compensation of \$44,440.00. This is broken down into three parts:

Task 1:	\$23,880.00
Task 2:	\$ 7,940.00
Task 3:	\$ 4,440.00
Task 4:	\$ 4,580.00
Expenses:	\$ 3,600.00

All of this work is estimated as hourly, not to exceed so that if tasks take less time than estimated, the Town will only be charged for the actual time spent. Expenses included cover sub-consultant costs, travel and miscellaneous office items.

ASSUMPTIONS

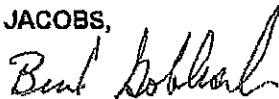
The proposal is based on the following assumptions:

- Any additional services not specifically provided in the above scope of work, as well as any changes the Town requests, will be considered as additional services. These services will be performed based on proposals approved by the Town prior to the performances of those services

Jacobs appreciates the opportunity to provide these services to the Town. Should you have any questions or need any further information, please do not hesitate to contact me.

Sincerely,

JACOBS,



Bud Goblich, P.E.
Office Manager

EXHIBIT A
JACOBS STAFF LABOR GRADE BILLING RATES

Labor Grade	Staff Type Classifications by Labor Grade						Standard Billing Rate (\$/hr)
	Engineer	Resident PR	Designer	CAD	Technician	Other	
G1							\$45.00
G2					T1		\$55.00
G3		RPR3			T2	Admin Asst	\$70.00
G4	E1	RPR4	DES1	CAD2			\$85.00
G5	E2	RPR5	DES2		T3		\$95.00
G6	E3	RPR6	DES3		T4		\$110.00
G7	E4	RPR7	DES4		T5		\$125.00
G8	E5	RPR8					\$140.00
G9	E6	RPR9					\$165.00
G10		RPR10					\$180.00
G11	E7						\$195.00
G12	E8						\$210.00

ORDERS FOR CONSULTANTS/ENGINEERS

Purchase Order No:

Requisition No:

Vendor:

0009236

JACOBS

1		Copy of Purchase Order
2	✓	Copy of Requisition
3	✓	Council approval documents
4	✓	Proposal
5	✓	Executed PSA
6	✓	Rate Sheet and back-up for negotiated cost
7	✓	Approved COI
8	✓	Evidence of Procurement Method (Bid, RFP, RFQ) <i>RFB 2010-13</i>
9		If not public bid provide selection criteria and support used to qualify contractors
10		Contractor bid specifications
11		Change order log
12		Copy of change orders
13		Recent payment requests for progress billing and lien waivers
14		Correspondence - Include copies of ALL correspondence as documentation of scope of work and pricing.
15		
16		