



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: September 22, 2020

DATE: Thursday, September 17, 2020

TO: Board of County Commissioners

FROM: Mark Stewart, Purchasing & Contracts Manager, Comptroller
(775)382-2281, mstewart@washoecounty.us

THROUGH: Comptroller Cathy Hill

SUBJECT: Recommendation to uphold the determination made by the Purchasing and Contracts Manager on August 18, 2020, to reject the appeal of Request for Proposals 3129-20 Investment Services by PFM Asset Management LLC (PFM). FOR POSSIBLE ACTION

SUMMARY

In accordance with County Code 15.495, it is the Duty of the Purchasing and Contracts Manager to acquire all goods and services for all Departments within the County in adherence with NRS 332, The Local Government Purchasing Act. The mission of the Purchasing Division is to obtain the goods and services required by each department, division and agency of the County, ensuring that such are received at the correct time, in the right place and for the best price possible, further ensuring that all such purchases are legal, ethical and non-discriminatory.

Here, PFM Asset Management ("PFM") is appealing the decision of the Purchasing and Contracts Manager to reject their appeal of the intent to award issued to Government Portfolio Advisors ("GPA") related to Request for Proposals (RFP) 3129-20 for Investment Services.

PREVIOUS ACTION

There has been no previous action on this item.

BACKGROUND

On May 22, 2020, Washoe County's Purchasing Division advertised Request for Proposals (RFP) 3129-20 Investment Services (attached), in accordance with Local Government Purchasing Act NRS 332. Proposals were accepted at 2:00pm on June 18, 2020 and the County received ten (10) proposals. An evaluation committee first reviewed the technical proposals, then the cost proposals. After the review was completed the top three (3) vendors were invited to make a presentation to the evaluation committee. Once the presentations were complete, the scores were tabulated and an intent to award was issued on July 22, 2020, indicating that PFM had the highest score. Unfortunately, due to a clerical error, the scores were not tabulated correctly and a new intent to award was

AGENDA ITEM # _____

issued on July 29, 2020 indicating that Government Portfolio Advisors (GPA) had the highest score. PFM exercised the option to appeal the County's intent to award per NRS 332.068(5) and submitted their letter of appeal (attached) with bond on August 4, 2020. PFM's appeal was rejected by the Purchasing and Contracts Manager on August 18, 2020 (attached).

The Purchasing and Contracts Manager thoroughly reviewed the process used to advertise and evaluate the proposals for the RFP's adherence to NRS 332 and found no violation of the law. The following responses were given in writing to PFM in response to the appeal letter:

1. *Your appeal letter does not specify how the applicable provisions of law were violated, which is a requirement of an appeal pursuant to NRS 332.068(2):*

“NRS 332.068 Contract for which estimated annual amount required to perform is more than \$100,000: Filing and contents of protest of award; posting and disposition of bond or security; stay of action; immunity of governing body from liability to person who submits response.

...

2. A notice of protest must include a written statement setting forth with specificity the reasons the person filing the notice believes the applicable provisions of law were violated.”

2. *Your first contention about a pricing disadvantage is not upheld because a contract with the County is public record, and your prior contract could have been viewed by anyone after its inception. Also, as stated in the RFP, the best and final offer phase is at the County's sole discretion.*
3. *Regarding your second contention, the County is not obligated to disclose the weights of the evaluation factors. The RFP was clear as to what factors were to be considered in evaluating the proposals. This included the contract price, which was specifically separated out as the second part of the proposal.*
4. *Finally, your third contention is not upheld because the County must evaluate the Proposals on what was submitted by the Proposers on the submittal date provided in the RFP to be able to determine a score. PFM Asset Management LLC did not submit the best price, which effected the overall score.*

Furthermore, NRS 332.065(3) requires that the contract be awarded as was set forth in the solicitation (the RFP here), which is precisely how Washoe County intends to proceed through its Amended Notice of Intent to Award the contract. For your reference, NRS 332.065(3) requires as follows:

“3. Except as otherwise provided by specific statute, if the estimated annual amount to perform a contract is more than \$100,000 and the method for obtaining the contract designated in the solicitation is a method other than an invitation to bid, the governing body or its authorized representative shall award such a contract taking into account the minimum requirements for a responding offeror prescribed in the solicitation pursuant to [NRS 332.043](#) and the method prescribed in that solicitation for awarding the contract.”

In accordance with the Purchasing Manual and NRS 332, the Purchasing and Contracts Manager made the determination that the appeal was rejected. PFM has now exercised its right to have that determination reviewed by the Purchasing and Contracts Manager.

FISCAL IMPACT

PFM submitted a cost proposal for evaluation that was more expensive than the intended awardee, GPA. Also, the costs to the County for having to run a new solicitation and the Treasurers Office not being able to realize the cost savings from the new Vendor.

RECOMMENDATION

Recommendation to uphold the determination made by Purchasing and Contracts Manager on August 18, 2020, to reject the appeal of Request for Proposals 3129-20 Investment Services by PFM Asset Management LLC (PFM).

POSSIBLE MOTION

Should the Board agree with staff’s recommendation, a possible motion would be: “move to uphold the determination made by Purchasing and Contracts Manager on August 18, 2020, to reject the appeal of Request for Proposals 3129-20 Investment Services by PFM Asset Management LLC (PFM).