



September 11, 2020

Bob Lucey
Chair, Washoe County Board of Commissioners
BLucey@washoecounty.us

RE: Notice of Recommendation and Intent to Award RFP Number: 3129-20 for
Investment Services

pfm

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San Francisco, CA 94111
415.982.5544

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Dear Mr. Lucey:

On behalf of PFM Asset Management LLC ("PFM"), I am requesting that this letter serves as an appeal to the award of a contract from RFP Number 3129-20, and requesting that the Washoe County ("County") Board of Commissioners (the "Board") conduct a review of the procurement and award process in accordance with NRS 332 and the appeal procedures set forth in the RFP. PFM has proudly served as the County's investment manager for the past 15 years and we believe the County has been a well-served and satisfied client for the entirety of our relationship.

On July 23, 2020, PFM gladly accepted rehire as the County's investment advisor, as evidenced by the receipt of a Notice of Recommendation and Intent to Award letter, dated July 22, 2020, which identified PFM as the **"best responsive, responsible option."** Unfortunately, and to our great disappointment, we learned a week later, on July 29, 2020, that the Purchasing and Contracts Division had revised the award, and this had not yet been reflected on the County's procurement site (DemandStar). We were also informed by the Purchasing and Contracts Division Manager ("Manager") and Purchasing and Contracts Division personnel that PFM received the **highest technical score** and that the decision to recall the award of contract to PFM turned **solely on our cost score**, which impacted our total score.

On August 4, 2020 we submitted an appeal to the Manager, which was rejected. We are therefore appealing the Manager's decision to the Commission. Our basis for our initial appeal, and which we would like to bring to the Commission's attention for consideration, focused on the following principles:

- **Pricing Disadvantage and Potential for "Last-Look" Bidding** – We believe we were unfairly disadvantaged regarding our pricing, and the absence of an opportunity for an equal review of fees.¹ The County disclosed its fee structure

¹Our basis for this belief is grounded in NRS 332.820(2), which states, "Advance disclosures of proprietary information or any other information to any particular responding offeror which would give that particular responding offeror any advantage over any other interested responding offeror in advance of the opening of responses, whether in response to advertising or an informal solicitation, made or permitted by a member of the governing body or an employee or representative thereof, shall operate to void all responses received in response to that particular solicitation." We believe this law does not make any distinction between public information, but rather any information.



with PFM during the RFP process, and we believe the other proposers took the opportunity to discount their fees relative to PFM's fees, thereby putting us at a competitive disadvantage. The County decided to forego a "Best and Final Offer" phase and that eliminated any opportunity for PFM to equally compete with advantaged fee proposals.

Therefore, we believe our appeal on the basis of Pricing Disadvantage and Potential for "Last-Look" Bidding (described in our appeal dated August 4, 2020) should be upheld.

- **Fiscal Best Interest** – PFM received the highest technical score which, in our view, should make us the most qualified bidder. Further, in our proposal, dated June 18, 2020, we clearly stated, "Although we are proposing to continue to serve the County under the current fee structure, PFM will consider any compensation structure that the County and its Board feel will provide fair value for both parties." We do not believe this concession was considered in the evaluation of our cost proposal, which in our opinion, should have formed a part of the evaluation, especially ***given the importance of considering investment management services costs in the context of investment return represented by performance track record***. In other words, the cost score should have been weighted by performance and the fact it was not seems to have unduly impacted our total score. Moreover, it is our view that our performance track record as provided in the RFP process reflected what would amount to a significant incremental return on investment to the County. We believe that overall investment returns, ***net of fees***, would be most beneficial to the County during the continued course of an engagement with an investment manager.
- **Procurement Process** – We believe that we have also been disadvantaged during the procurement and appeal process by the timeline of events. PFM operated under the belief that we had been rehired as the County's investment advisor for a full six (6) calendar days until we learned otherwise. It was not until we reached out to the County as part of our typical relationship communication that we learned there was an error, which ultimately prompted the Purchasing and Contracts Division to post the revised award letter within the County's procurement site (DemandStar). This was detrimental to PFM as the RFP appeals process only permitted appeals within a seven (7) calendar day window after an award.

Moreover, during the appeal window, the County was moving forward with award actions. The County's procurement process requires that in the event of a protest, any award actions be stayed until after the Purchasing and Contracts Manager has responded in writing to such protest:



Washoe County will stay any award actions until after the Purchasing and Contracts Manager has responded in writing to the protest. If the appellant is not satisfied with the response, appellant may then protest to the Washoe County Board of Commissioners, who will render a final decision for the County. No Proposal protests will be heard by the Board of Commissioners unless the Proposal has followed the appeal process.

However, the County's Investment Committee agenda for August 5, 2020 (the last day of the appeal period), included an action item to recommend the award agreement to the new investment advisor. We view this recommendation, prior to the resolution of the appeal, as a violation of the County's procurement and appeal procedure, and one that we believe further unfairly harmed us.

Given all of the information set forth above, we appreciate the Board of Commissioners' careful review of this appeal and again request that the County honor the first Notice of Recommendation and Intent to Award letter dated July 22, 2020, which named PFM as the winning bidder, or reject all proposals received. Please contact me if you have any questions.

Sincerely,

Monique Spyke
Managing Director
spykem@pfm.com
415-393-7259

Enclosures (2):

1. Initial Appeal
2. Performance Review (per the Investment Committee's request on August 5, 2020)