



CITY OF HOUSTON

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October 27, 2015

Mr. Robert I. Howell
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Via Email: Robert.howell@bakerbotts.com

Mr. Danny David
Baker Botts LLP
One Shell Plaza
910 Louisiana St.
Houston, Texas 77002-4995
Via Email: danny.david@bakerbotts.com

Mr. Chad Starwalt
G4S Secure Solutions (USA), Inc.
655 Craig Road, Suite 230
Creve Coeur, Missouri 63141
Via Email: chad.starwalt@usa.g4s.com

Re: Pre-Award Protest of Solicitation No. S19-L25385
Security Guard Services for Various Departments

Dear Mr. Howell, Mr. David and Mr. Starwalt:

I am writing to communicate the decision of the bid protest panel regarding the above-referenced protest.

Your protest raised five areas of concern alleging the following:

1. Norred and Associates, Inc. (Norred) does not meet the minimum qualifications set out in the Invitation to Bid (ITB).
2. The proposed contract should not be awarded to Norred because it is not a responsible bidder.
3. The proposed contract award terms – including price terms – substantially differ from those in Norred's bid.
4. City personnel have violated the "quiet period" rule imposed by the City's Procurement Manual and the ITB.
5. The Bid Irregularity Committee exceeded its authority.

After considering your presentation and the relevant information, the panel deliberated and has decided to deny your protest. The reasons for the panel's decision are as follows:

A. Norred Has Not been Awarded the Contract

G4S Secure Solutions (USA), Inc. (G4S) presented a printout from Onvia's website, an affidavit from G4S employee Jason Brown regarding a conversation with City employee Fred Lee, and a link to the Strategic Procurement Division's webpage all purporting to show that a contract has been awarded to Norred. All three sources are incorrect.

Only City Council can award a contract in this solicitation. Regardless of the incorrect or confusing information presented, it is clear that Houston's City Council has not taken action on Solicitation No. S19-L25385.

Accordingly, the panel disagrees with the first three allegations listed above.

B. The No Contact Period Does Not Prohibit City Employees from Initiating Contact

The affidavit of Jason Brown details a single discussion between City employee Fred Lee and G4S employees regarding the solicitation. G4S does not present any evidence regarding other bidders allegedly violating the No Contact Period (also referred to as the Quiet Period). The panel was unpersuaded by G4S' allegations that such conversations were happening, especially in light of G4S' admission during the hearing that certain conversations seeking bid clarification were appropriate.

The affidavit states that Mr. Lee initiated the conversation on Aug. 5, 2015. The No Contact Period provision states "Neither bidder(s) nor any person acting on bidder(s)'s behalf" may communicate with anyone. It does not prohibit a City employee from initiating communication.

Accordingly, the panel does not agree that the No Contact Period policy was violated on Aug. 5, 2015. No evidence of other incidents with other bidders was presented. The panel disagrees with the fourth allegation.

C. Bid Irregularity Committee Acted Properly

The Procurement Manual requires that a bid protest allege a violation of City procedures or policies, or an alleged failure of the City to follow terms or processes set out in the applicable solicitation. It also requires that a bid protest must contain copies of relevant documents supporting the legal and factual grounds of the protest.

As discussed above, G4S' first three allegations fail because City Council has not awarded a contract to Norred, and its fourth allegation fails because a City employee may initiate a discussion of the solicitation without violating the No Contact Period. The Bid Irregularity Committee acted within its authority when it concluded that the minimum requirements for a bid protest were not met. The panel also disagrees with the fifth allegation.

Conclusion

The panel has considered the record and, as noted above, denies your protest and the relief requested. The panel appreciates the professional courtesies extended during the hearing.

Signed,



Wayne Newman

On behalf of the bid protest panel

Bid Protest Panel Members:

Frank Rodriguez, HPD
Matt Townsend, HAS
Wayne Newman, PWE

Cc: Donna Edmundson
Roy Korthals
James Cargas