



CITY OF HOUSTON

Office of Business Opportunity

Interoffice Memorandum

To: Marsha E. Murray, OBO Deputy Director
From: Barbara Fisher, Procurement Specialist
Date: August 11, 2016
Subject: Good Faith Effort Request
Pre-Award, HPL, Library Collection and Recovery Services

The Good Faith Effort Request submitted by the Houston Public Library on behalf of Unique Management Services, Inc. for the above referenced project has been reviewed and evaluated. This solicitation involves library collection and recovery service, with a **24%** MWBE goal.

Houston Public Library provided the following information:

Houston Public Library provided a Good Faith Effort Request for evaluation by OBO from Unique Management Services, Inc. The contract was advertised as an **RFP** on August 7, 2015 with a bid submission date of March 31, 2016. This solicitation will be based on a contingency fee pricing schedule.

HPL furnished the Proposer's Good Faith Effort, which consists of the following:

- Proposer's explanation of Good Faith Effort and waiver reason (On Unique Management Services Letterhead)
- Schedule of MWBE Participation (Exhibit II – Attachment A)
- Supporting documentation (letters and email to certified firms)
- Emailed dated August 10, 2015, outlining outreach to law firms and printing/office supply firms.
 - Email included thirty-two (32) attached letters from UMS to law firms and printing/office supply firms.
 - Email included a narrative of the responses from various firms.

This solicitation involves providing library collection and recovery services. The services will include supervision, labor, equipment, materials and supplies necessary to generate and distribute overdue notices, billing notices, statements of accounts and similar notices to patrons of the library and to establish procedures for patrons to pay all fines and fees levied and to recover overdue materials.

Proposer provided the following information:

Houston Public Library selected Unique Management Services, Inc. to perform the administration of the collections and recovery services for library overdue notices and recovery of overdue materials. However, UMS was unable to comply with the advertised **24%** MWBE Contract Goal and submitted a Good Faith Effort Request for review.

- A letter was submitted by Unique Management Services, dated June 14, 2016, outlining explanation for a waiver of MWBE subcontracting for this solicitation.
- UMS submitted on Exhibit II – Attachment "A" which outlines UMS efforts to carry out the City's MWBE policy. UMS identified the following potential subcontracting opportunities, contacted certified firms and provided firms responses/findings:
 - **Professional Legal Services; Attorney Services** (NAICS Code 541110)
 - **Law Office of Victor D. Walker** (Certified MBE)
 - Does not practice in the area of Collection Law
 - **Law Office of Francisco G. Medina** (Certified MBE)
 - Does not practice in the area of Collection Law
 - **Law Office of Jan Clark** (Certified WBE)



- *Practices in the area of Collection law but is not a litigator. No registered with the American Collectors Agency (ACA)*
- **Law Office of Darryl B. Carter (Certified MBE)**
 - *No response from practice. Sent follow up message and no response.*
- **Law Office of Harry Johnson (Certified MBE)**
 - *Emailed firm. Received additions questions but no formal response.*
- **Law Offices of Jennie Hovell-Cox (Certified MBE, WBE)**
 - *Does practice in the area of Collection Agency Law but no registered with American Collections Association (ACA).*
- **Full Service Bank; Financial Services (NAICS Code 522110)**
 - **Unity National Bank (Certified MBE)**
 - *Could not accommodate us at this time in opening an account without an existing business relationship.*

UMS conducted additional outreach to several certified law firms and a few certified mailing processing firms. UMS identified additional potential subcontracting opportunities, contacted certified firms and provided firms responses/findings:

- **Albert O. Morris (Certified MBE)**
 - *No response via mail and email was rejected as the email box was full. UMS followed up with phone calls but no return calls to date*
- **Anderson & Smith (Certified MBE)**
 - *No response via mail. Mailbox was full. Left voicemail with no return call to date.*
- **Barry Barnes & Associates (Certified MBE)**
 - *Email response received. Not currently registered with ACA which is an insurance requirement of UMS for insurance purposes.*
- **J. Goodwille Pierre (Certified MBE)**
 - *Email response received. Not currently registered with ACA. Out of the office until 8/10/2016. UMS will reach out again.*
- **Senfronia Thompson Law Office (Certified WBE)**
 - *Emailed response received. Does not do this type of work.*
- **W. Clyde Lemon Attorney at Law (Certified MBE)**
 - *Not currently registered with ACA, which is an insurance requirement of UMS for insurance purposes. Firm is evaluating the requirement of ACA to see if it will be economically viable for the firm to pursue.*
- **City Office Supply – (Certified WBE)**
 - *Certifications have expired with OBO and they are not renewing*
 - *DS researched and found that City Office Supply is actively certified with the City. They have not yet gone through the de-certification process.*

In total, thirty-two (32) additional letters were sent out to certified legal firms and printing firms as demonstration of good faith efforts to attempt to achieve the goal. The remaining twenty-five (25) firms that were contacted have not responded, which includes outreach to law firms and printing and mail processing certified firms.

In summary, per UMS, they do not subcontract any portion of their services. By not subcontracting any portion of their services, they are able to provide HPL highly specialized services at a low fee which have remained the same since 2003, thus, allowing the City to maintain a revenue neutral contract. UMS provides specialized and unique services to 1,600 public libraries. UMS currently has a strategic partnership with the library's software vendor, which information is sent to them directly electronically utilizing the collection agency software.

OBO - Department Services (DS) Findings:

Department Services inquired, via email, for HPL to list possible subcontracting opportunities for this solicitation on July 5, 2016. HPL responded on July 5, 2016, identifying the following potential work element:

- **Processing and Mailing of postal overdue and billing notices**

On July 5, 2016, DS emailed UMS to suggest the subcontracting work element of processing and mailing of overdue and billing notices. Per UMS, due to the volume (400,000 letters each month) with the current vendor being used, it is impossible for another vendor to provide the level of discount received and the level of service. The possibility of parsing out a small number of letters to be printed by another vendor would possibly triple the cost, therefore, increasing the cost to the City. Therefore, UMS does not deem this work element as a viable opportunity to subcontract.

Department Services inquired about the need for attorneys to be registered with the American Collections Association (ACA) when the Scope of Work/Specification does not mention this requirement. Per UMS, they consider registration with the American Collections Association (ACA) as necessary for their insurance purposes. The E&O (*Errors & Omissions*) insurance policy provides protection from claims of negligence or failure to perform services. Per UMS, the agreement with their carrier requires UMS to use attorneys on the ACA defense council. If UMS were to use an attorney not agreed upon by the carrier, the carrier could deny coverage and protection.

Department Services consulted the City's MWSBE Directory in search of additional certified attorneys that could satisfy the legal portion of this solicitation. Search concluded that there are forty-two (42) certified firms in the City MWBE online directory that could have been contacted to inquire about their capabilities, such as Collection Law, and membership of American Collections Association (ACA). UMS contacted thirty-three (33) certified firms, which is approximately 78% of the total certified firms in the directory. Per UMS, to date per the last contract, five (5) lawsuits totaling \$4,730.00 spent on attorney fees.

UMS contacted four (4) printing and office supplies certified firms (NAICS Codes 323119, 323110 & 453210). There are twenty-two (22) combined for the NAICS code mentioned above. UMS reached out to approximately 4% of the total certified firms in the directory.

Department Services researched and found one (1) certified firm that provides mail services (Sadoobie Consulting, NAICS Code 561431). UMS did not contact this firm.

Lastly, the previous contract with Unique Management Services Inc. (4600007229) Library Collection and Recovery Service for the Library Department (S37-T22667) had a 0% goal.

OBO - Department Services (DS) Recommendations:

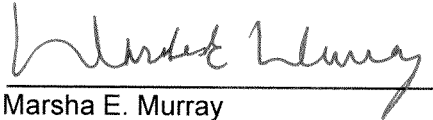
- Unique Management Services established that they made sufficient good faith efforts in attempt to comply with the advertised goal. This was determined based on their outreach to a copious number of attorneys/legal services firms. Lastly, UMS provided documentation demonstrating their outreach to certified firms that were identified as viable work elements for this project. UMS did not express that they contacted any minority or woman focused organizations or associations, however, Department Services has assessed that UMS did conduct a successful search using the online MWSBE/PDBE & DBE Directory and initiated and followed up with relevant certified firms.
- Lastly, there was a lack of responses from the firms contacted. The legal firms that were contacted either did not do this type of legal or were not currently registered with ACA, which is an insurance requirement of UMS for insurance purposes.

Therefore; it is the recommendation to **APPROVE** this good faith effort request which results in a MWBE participation plan of 0%.

Reviewed and Accepted

8/12/16

Date



Marsha E. Murray
OBO Deputy Director