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December 14, 2022

Mark A. Hartwig
Fire Chief/Fire Warden
Santa Barbara County Fire Protection District
4410 Cathedral Oaks Road
Santa Barbara, CA 93100-1042

Re: Bid RFP #8010001 - GS Purchasing-Services: Exclusive Ambulance Services Provider for the Santa Barbara County Exclusive Operating Area ("RFP")

Dear Mr. Hartwig:

Thank you for submitting the protest letter dated Friday, November 4, 2022 and supplemental information to the protest dated Wednesday, November 23, 2022. Below are responses to the Santa Barbara County Fire Protection District ("District") protest and supplemental information.

District Reason 1: False and Misleading as to RFP Minimum Qualifications.

District states "AMR [American Medical Response West] Proposal is False and Misleading as to RFP Section 2.9 Minimum Qualifications because AMR failed to identify recent noncompliance and, thus, the panel should have scored this requirement with a "fail" and discontinued consideration of AMR's proposal." (Protest, p. 2) District specifically refers to RFP section 2.9.B. (Protest, p. 2.)

County of Santa Barbara Response to District Reason 1:

Denied.

RFP section 2.9.B states "LEMSA shall entertain proposals only from organizations demonstrating fiscal stability and prudence, as well as a stable track record of rendering emergency, non-emergency, and urgent ambulance services at levels of clinical quality and response time reliability substantially equivalent to the services required under this procurement. Therefore, all interested Proposers are required to meet minimum qualifications as a part of their RFP response. Proposers' credentials will be evaluated ... to demonstrate each Proposer's ability to perform if awarded the Contract. Credentials ... will be scored on a pass/fail basis." Nothing in RFP section 2.9, including subsection 2.9.B, required proposers to disclose non-compliance issues.

RFP section 2.11.A states "[t]his section includes the criteria that will be considered in scoring the Proposals [and] The matrix that will be used in the Proposal review process is outlined below. The total points that can be awarded for each area are identified." The Proposal Review Panel scored both proposals as a "pass" for RFP section 2.9 in accordance with Proposal Evaluation Criteria set forth in RFP section 2.11.

Per RFP section 2.10.G.iii. statements challenging the judgment of the Review Panel shall not be considered as valid protests.

District Reason 2: Failure to Comply with RFP Proposal Evaluation Criteria.

District states “AMR Proposal Is Nonresponsive to sections 4.2 and 4.10 of the RFP and thus the entire AMR Proposal should be considered non-responsive (RFP page 30), and the contract awarded to the District. The proposers were not accorded fair and equal consideration in the evaluation process because the bids were not evaluated in accordance with the stated Proposal Evaluation Criteria.” (Protest, p. 3.)

In regards to RFP section 4.2 District states “Appendix 10 to the RFP is entitled “Sample Proposal Evaluation Criteria Explained” and contains questions intended to guide the Proposal Review Panel (“PRP”) in evaluating the various sections of the proposals. For Section 4.2, Appendix 10 provides evaluators with the following guidance: *Has the Proposer fully outlined what data/metrics it will collect and how it will be used to improve the clinical practice within the EMS system?*” (Protest p. 4.) District continues “AMR failed “to “fully outline” the data/metrics AMR will collect or how such data will be used to improve clinical practice within the EMS system. Because it fails to provide the information requested in Section 2.1 of the RFP, the Proposal is nonresponsive and cannot be accepted by County.” (Protest, p. 5.)

In regards to RFP section 4.10 District states that AMR failed to identify 7 elements listed under RFP section 4.10 and concludes “[t]he AMR Proposal, therefore, fails to fully respond to the instructions in Section 4.10 of the RFP, should have thus been scored as unsatisfactory by 3+ reviewers, and the entire AMR Proposal should be deemed non-responsive. (RFP page 30.)” (Protest, p. 5-7.)

County of Santa Barbara Response to District Reason 2:

Denied.

RFP section 2.1 titled “Performance-Based Contract” states “[t]his RFP is designed to result in the award of a performance-based Contract (also referred to herein as Agreement). Contractor’s failure to achieve the performance standards set forth in the RFP and resulting Contract will result in the assessment of liquidated damages, as set forth herein, and may result in the LEMSA’s termination of the Contract. The essential areas where performance must be achieved include: ...[includes 10 bullet points]. The Agreement is not a level-of-effort agreement. The successful Proposer must employ whatever level of effort is necessary to achieve the clinical, response time, customer satisfaction, quality improvement, and other performance results required by the EMS System Specifications.” Nothing required proposers to link all information to RFP section 2.1, nor does the section indicate it is the definition of “fully outlined.”

Appendix 10 is titled “Sample”. Nothing in the RFP required proposers to specifically respond to the questions in Appendix 10.

RFP section 2.11.A states “[t]his section includes the criteria that will be considered in scoring the Proposals [and] The matrix that will be used in the Proposal review process is outlined below. The total points that can be awarded for each area are identified.” The Proposal Review Panel scored both proposals for sections 4.2 and 4.10 in accordance with Proposal Evaluation Criteria set forth in RFP section 2.11.

Per RFP section 2.10.G.iii. statements challenging the judgment of the Review Panel shall not be considered as valid protests.

District Reason 3: Possible Violation of the Medicare and Medi-Cal Anti-Kickback.

District states “County Must Reject The AMR Proposal And Refuse To Contract With AMR Because The Proposal Appears To Offer To Allow The County To Access PPIGT Funding In Violation Of The Medicare and Medi-Cal Anti-Kickback Statute (AKS).” (Protest, p. 9.)

County of Santa Barbara Response to District Reason 3:

Denied.

The County of Santa Barbara accepts AMR's response as a valid rebuttal.

District Reason 4: Additional False or Misleading Statements.

District states "The AMR Proposal should be rejected because it contains additional significant false or misleading statements. As per the County of Santa Barbara RFP No. 8010001, Section 2.5 False or Misleading Statements, "Responses which contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the Proposer, must be rejected, subject to the County's ability to waive minor irregularities." (Protest, p. 11.)

County of Santa Barbara Response to District Reason 4:

Denied.

The County of Santa Barbara accepts AMR's response as a valid rebuttal.

District Reason 5: Failure to Consider Economic Benefits to County.

District states "Santa Barbara County Code of Ordinances, Article VI, Section 2-40(d) for competitive bidding requires fiscal statements. Cost is always a factor when the County purchases on behalf of the taxpayer and failure to require this information in soliciting and evaluating bids harms the County and is inconsistent with the County Code." (Protest, p.12.)

County of Santa Barbara Response to District Reason 5:

Denied.

The County of Santa Barbara does not agree with the District's application of County Code section 2-40(d).

The County of Santa Barbara does not agree with the District's application of County Code section 2-41(a).

RFP section 2.11.A states "[t]his section includes the criteria that will be considered in scoring the Proposals [and] The matrix that will be used in the Proposal review process is outlined below. The total points that can be awarded for each area are identified." The Proposal Review Panel scored both proposals as a "pass" for the Financial Assessment in accordance with Proposal Evaluation Criteria set forth in RFP section 2.11.

Per RFP section 2.10.G.iii. statements challenging the judgment of the Review Panel shall not be considered as valid protests.

District Reason 6: Failure to Comply with RFP Proposal Instruction (Page 19 of RFP).

District states "AMR's Proposal did not comply with the RFP rigorous proposal instructions (RFP 2.8 Proposal Instruction, Pg 19); therefore, the AMR Proposal should be considered nonresponsive, rejected, and the contract awarded to the District." (Protest, p. 13.)

County of Santa Barbara Response to District Reason 6:

Denied.

RFP section 2.11.A states "[t]his section includes the criteria that will be considered in scoring the Proposals [and] The matrix that will be used in the Proposal review process is outlined below.

The total points that can be awarded for each area are identified.” The Proposal Review Panel scored both proposals as a “pass” for section 2.8 in accordance with Proposal Evaluation Criteria set forth in RFP section 2.11.

Per RFP section 2.10.G.iii. statements challenging the judgment of the Review Panel shall not be considered as valid protests.

District Supplemental Information: False and Misleading as to RFP Minimum Qualifications.

District states “AMR is false and misleading as to RFP Section 2.9 Minimum Qualifications because AMR failed to identify recent noncompliance and, thus, the panel should have scored this requirement with a “fail” and discontinued consideration of AMR’s proposal.” (Supp. Info., p. 2.) District specifically refers to RFP section 2.9.B. (Supp. Info., p. 2.)

County of Santa Barbara Response to Supplemental Information:

Denied.

RFP section 2.9.B states “LEMSA shall entertain proposals only from organizations demonstrating fiscal stability and prudence, as well as a stable track record of rendering emergency, non-emergency, and urgent ambulance services at levels of clinical quality and response time reliability substantially equivalent to the services required under this procurement. Therefore, all interested Proposers are required to meet minimum qualifications as a part of their RFP response. Proposers’ credentials will be evaluated ... to demonstrate each Proposer’s ability to perform if awarded the Contract. Credentials ... will be scored on a pass/fail basis.” Nothing in RFP section 2.9, including subsection 2.9.B, required proposers to disclose non-compliance issues.

RFP section 2.11.A states “[t]his section includes the criteria that will be considered in scoring the Proposals [and] The matrix that will be used in the Proposal review process is outlined below. The total points that can be awarded for each area are identified.” The Proposal Review Panel scored both proposals as a “pass” for RFP section 2.9 in accordance with Proposal Evaluation Criteria set forth in RFP section 2.11.

Per RFP section 2.10.G.iii. statements challenging the judgment of the Review Panel shall not be considered as valid protests.

Thank you for the time and effort you and the Santa Barbara County Fire Protection District expended in responding to the Request for Proposal.

Sincerely,

Phung Loman

Phung Loman
Chief Procurement Officer (Purchasing Agent)
General Services Department
Purchasing Division

cc:

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