

BUSINESS CLEARANCE MEMORANDUM		Clearance No: CW20202	
COMPETITIVE SEALED PROPOSAL		Date: 3/12/13	
<i>(Original to be returned to initiating commodity buying group)</i>			
COMMODITY BUYING GROUP: Transportation and Specialty Equipment Commodity Group			
Type of Procurement:			
<input checked="" type="checkbox"/> Negotiations after cancellation of IFB			
Contract Type(s): Requirements		Clearance Total: \$11,371,500 Three Year Base Period \$ 3,833,225 Option Year 1 \$ 3,869,390 Option Year 2	
Clearance:			
<input type="checkbox"/> Pre-negotiation		<input type="checkbox"/> Letter contract award	
<input checked="" type="checkbox"/> Post-negotiation		<input type="checkbox"/> Authority to enter into a contract without negotiations	
Offeror(s):	Address:	Contract No.(s)	
Urban Service Systems	212 Van Buren Street, NW, WDC 20012		
Mr. Bult's, Inc. (MBI)	2627 E 139 th Street, Burnham, IL 60633		
Jerome L. Taylor Trucking Inc.	1455 Pennsylvania Ave, NW #400, WDC 20004		
F&L Construction	1512 Good Hope Road, SE, WDC 20020		
Lucky Dog LLC	1220 W Street, NE, WDC 20018	CW20202	
Description of Contract Line Items:			Quantity & Unit of Issue
0001 – Haul Combustible Solid Waste			250,000 tons
0002A – Haul Non- Combustible Solid Waste			24,000 tons
0002B – Dispose of Non-Combustible Solid Waste			24,000 tons
0003A – Haul White Goods			1,100 tons
0003B – Dispose of White Goods			1,100 tons
0004 – Haul Leaves and Tree Debris			10,000 tons
Pricing Structure <i>(If CPAF indicate base and award fee)</i>	Pre-negotiation	Post-negotiation/Pre-award	
Total Cost			
Fee/Profit (%)			
Total Estimated Cost and Fee/Price	\$19,347,911 - \$27,515,000	\$19,074,123.70 (Base Period and Option Years)	
Delivery or Period of Performance	To Commence:	To Finish:	
	Date of Award	Three Years Thereafter	
Contact Points for this Document Contract Specialist/Negotiator	Gena Johnson	Phone #:	202-671-2205
		Email	Gena.johnson@dc.gov
	James Roberts	Phone	202-671-2524
Commodity Manager		Email	James.roberts@dc.gov
	Hallie Clemm	Phone #:	202-645-5141
Program Manager		Email	Hallie.clemm@dc.gov

SECTION 2: PRE-AWARD COMPLIANCES

		Yes	No	N/A	Reference:
	Pre-Award Compliances				
2.1	The Agency Chief Financial Officer has encumbered the required funding or certified that it is available Date of certification or encumbrance:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2.2	Contractor has submitted a Certificate of Current Cost and Pricing Data Cut-off date: Date received:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
2.3	Notice of DOES tax compliance has been requested and received (<i>Applicable to contract awards greater than \$100,000</i>) Date requested: Date received: 2/5/13	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2.4	Notice of OTR tax compliance has been requested and received (<i>Applicable to contract awards greater than \$100,000</i>)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2.5	The contractor's apprenticeship program has been approved by the Office of Human Rights (<i>Construction contracts only</i>)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
2.6	DOES has approved the contractor's "First Source" Employment Agreement Approval date:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2.7	The contractor has submitted evidence of LSDBE certification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2.8	Basic Business License	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

BUSINESS CLEARANCE MEMORANDUM
(Signature page – additional pages set forth facts)

Clearance No.: CW20202

Contracting Officer's Executive Summary and Recommendation:

After approval to cancel the Invitation for Bids and enter into negotiations, the Contracting Officer conducted discussions with all bidders. Best and Final Offers were received and reviewed. There were still questions regarding whether the proposal by the lowest evaluated offeror was acceptable. The Contracting Officer made a competitive range determination and entered into a second round of discussions with the three offerors (Lucky Dog, Urban Service Systems and Jerome L. Taylor) in the competitive range. The three offerors satisfactorily addressed all remaining questions regarding their proposals in the Second Best and Final Offers. Therefore, all offerors were considered to be equally, technically qualified. The award decision was based on price. CBE preference points were considered in the final evaluated price. Only one vendor (Urban Services) was certified as of the original bid opening date. The other two vendors (Jerome L. Taylor and Lucky Dog, LLC) were certified after the original bid opening date and therefore no preference points were applied in the evaluation. Lucky Dog, LLC has the lowest evaluated price. Award is recommended to Lucky Dog, LLC.

Clearance Name: Gena Johnson
Prepared by: Title: Contracting Officer

Signature

Date
3/13/13

Reviewed by: Name: James Roberts
Commodity Manager

Signature

Date
3/13/2013

Approved by:

Unconditional Approval

Conditional Approval

Not Approved

Signature:

James O. Stator Jr.

Chief Procurement Officer

Date:

3/14/13

Conditions (if applicable):

SECTION 2: PRE-AWARD COMPLIANCES

Pre-Award Compliances		Yes	No	N/A	Reference:
2.1	The Agency Chief Financial Officer has encumbered the required funding or certified that it is available Date of certification or encumbrance:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2.2	Contractor has submitted a Certificate of Current Cost and Pricing Data Cut-off date: Date received:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
2.3	Notice of DOES tax compliance has been requested and received (<i>Applicable to contract awards greater than \$100,000</i>) Date requested: Date received: 2/5/13	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2.4	Notice of OTR tax compliance has been requested and received (<i>Applicable to contract awards greater than \$100,000</i>)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
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2.6	DOES has approved the contractor's "First Source" Employment Agreement Approval date:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2.7	The contractor has submitted evidence of LSDBE certification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2.8	Basic Business License	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

SECTION 3 Negotiations

3.1 References and Exhibits/Attachments

The following documents are not attached to this BCM, but are available upon request of the reviewer:

- D&F to Cancel IFB and Enter Negotiations
- Requests for Best and Final Offers
- Contractor Best and Final Offers
- Requests for Second Best and Final Offer
- Contractor Second Best and Final Offers

The following documents are attached to this BCM:

- Pre-Negotiation BCM (Attachment A)
- BAFO Bid Tab (Attachment B)
- Price Comparison – Original Bid vs. BAFO (Attachment C)
- D&F for Competitive Range Determination (Attachment D)
- Second BAFO Price Comparison (Attachment E)
- D&F for Responsibility (Attachment F)

3.2 Background

A D&F to cancel the Invitation for Bids and enter into negotiations was approved on December 20, 2012. Bidders were notified via email on December 28, 2012 that the solicitation was cancelled and discussion would be conducted in writing. The vendors were given a preliminary list of questions regarding their bid submission.

3.3 Results of Negotiation

The Contracting Officer responded to any questions received from the vendors prior to the conclusion of discussions on December 31st. A Request for a Best and Final Offer was then sent to all vendors. Best and Final Offers were received on January 3, 2013. A revised bid tabulation was prepared. Jerome L. Taylor Trucking submitted with its BAFO proposal, a printout from the Department of Small and Local business Development showing that its re-certification had been approved. Preference points were applied to Urban and Jerome L. Taylor Trucking. After the application of preference points, the lowest evaluated price was offered by Jerome L. Taylor Trucking (JLT). See BAFO Bid Tabulation (Attachment B). The BAFO response from JLT was forwarded to the program manager for review.

3.4 Proposal Revisions Other than Price

The following summarizes revisions to each vendor's submission and new or continued deficiencies. These notations include both the observation of the Program Manager (which were forwarded to the Contracting Officer on January 4th and 15th) and of the Contracting Officer.

Note that the observations of the Contracting Officer were also included in the D&F for Competitive Range Determination as facts justify additional discussions.

- A. Urban – Provided basic business license for Super Salvage (recycler).
 - Did not provide definitive plan for replacement of older equipment

- B. MBI – Did not submit a subcontracting plan
 - Reconfirm intent to get license if awarded contract
 - Provided copy of license for King George as the proposed landfill (replaced Progressive Waste Solutions proposed in the original bid)

- C. JLT – Provided CBE certification
 - Provided explanation of relationship between Team Transport and JLT, however JLT intent to subcontract is unclear. On one page of the submission, JLT indicates that because it is a CBE, it would not subcontract. On another page JLT indicates that it will subcontract with Team Transport.

- D. F&L – Submitted agreements with Shoosmith and Smith & Sons (replacing Baltimore Scrap)
 - Submitted bid bond not equal to 5% of bid

- E. Lucky Dog – Submitted two subcontracting plans. Need clarification as to which subcontractor will be used so that a determination can be made if the subcontractor is approved.

3.5 Price Proposal Revisions

The price proposed by MBI and Lucky Dog remained unchanged. Urban lowered its price on average by 1%, JLT – 4% and F&L – 14%. See attached comparison (Attachment B).

The price proposed by F&L was still considered too high when compared to historical pricing and the other proposals, and thus unreasonable. F&L also failed to follow the solicitation instructions to provide a negative number for CLIN0003B Disposal of White Goods. The Contracting Officer determined that both of these issues were justification for removing F&L from further consideration.

3.6 Findings of the Technical Evaluation Panel

After review of the BAFO from JLT, the Program Manager submitted the following comments/questions regarding the submission (taken from email dated 1/4/13):

1. I still do not see an itemized list of the subcontractor's trucks and trailers that will be used to support the contract.
2. The list of references provided by JLT are those jobs in which they were subcontractors. The primaries were Bates and Goode....the members of Team Transport.....I need some way other than that to get a feel for their reliability.
3. JLT did not provide the agreements or permits for Recycle One or the King George landfill.

4. JLT says they are subcontracting with Team Transport in the subcontracting plan. However, on page 7 of the Operation Plan they say they are subbing with LDI....which one is it.
5. The bid price for CLIN 2B is still too high.

3.7 Contracting Officer's Independent Assessment

Because the program manager had additional questions for JLT which affected the Contracting Officer's ability to make an award decision to that vendor (i.e. the vendor could not be determined to have met the special standards of responsibility), discussions needed to be reopened. JLT's response in its BAFO was still unclear as to its intent to subcontract. In reviewing the initial bid submission from JLT, both the Program Manager and the CO did not notice that two disposal agreements were missing and the CO failed to ask for those in the Request for BAFO. Lastly, the references provided were only for clients for whom JLT was a subcontractor. The level of responsibility and organizational requirements for JLT would be different as a subcontractor versus a prime contractor. To ensure that JLT had the ability to manage a large contract as a prime contractor, JLT needs to present a client list for which it was a prime.

Since discussions were to be reopened, the Program Manager was asked to review all BAFO submissions. The Program Manager submitted her findings on January 15th. After review of the BAFOs, and the Program Manager's findings, the Contracting Officer made a competitive range determination (See Attachment D). Once approval of the D&F was received on January 23rd, the Contracting Officer notified the two vendors not in the competitive range that their bids were no longer being considered.

Discussions were reopened with the three vendors in the competitive range (JLT, Urban and Lucky Dog) on January 23, 2013. Discussions concluded on January 24th at which time, the three vendors were asked to submit a Second Best and Final Offer.

A debriefing was requested by F&L Construction and held on Wednesday, January 30, 2013. The Contracting Officer met with Freddie Winston and John Calhoun of F&L.

3.8 Proposal Revisions Other than Price (Second BAFO)

The offerors provided responses to the questions outlined in the Requests for Second Best and Final Offer. Specifically, the following additional information was provided:

Lucky Dog – Confirmed name of subcontractor.

- Provided client references for the proposed subcontractor.

JLT – Confirmed that it would subcontract.

- Provided DUNS Number and USDOT number for sub.
- Provided missing agreements with disposal facilities.
- Provided client references for which it was a prime contractor.

Urban – Provided more detail regarding its equipment replacement plan.

3.9 Price Proposal Revisions (Second BAFO)

Only Urban changed its price proposal by lowering the price for CLIN 0001 in base period by \$.05. A revised price comparison sheet was prepared (Attachment E).

3.10 Price Reasonableness Determination

The lowest priced offer is from Lucky Dog. The Contracting Officer has determined the price to be reasonable based on the following:

- a) Comparison of prices received in response to the solicitation; and
- b) Comparison of prices to historical prices paid for the same service.

The bid tabulation provided as Attachment E to this BCM shows the comparisons.

3.11 Determination of Responsibility

The Contracting Officer has determined the contractor to be responsible. See D&F for Responsibility (Attachment F).

3.12 Source Selection Decision

The initial solicitation was an Invitation for Bids (IFB). When the IFB was cancelled and negotiation commenced, the procurement process continued as a Request for Proposal. No technical evaluation factors with points were added to the solicitation. Instead there was a Yes/No decision as to whether the bidder (now offeror) met the requirements of the solicitation including the Special Standards of Responsibility. Based on the information provided by the three offerors, who were in the competitive range, the CO has concluded that all three met the requirements of the solicitation and therefore were technically equal. The final award decision is based on price.

Note that JLT was not certified as a CBE when bids were opened under the initial IFB. After negotiations commenced, JLT provided its CBE certification in its BAFO. After the conclusion of the second round of discussions, Lucky Dog also sent notification to the Contracting Officer that it was recently certified. An initial award recommendation was made to JLT who had the lowest evaluated price once preference points were applied. After review of the procurement regulations in consultation with the Office of the Attorney General, it was determined that preference points could not be applied to JLT. The final bid tabulation was redone to remove the preference points for JLT. Because neither JLT nor Lucky Dog were certified as of the original bid opening date, no preference points were applied in the price evaluation. Urban Service Systems was certified as of the original bid opening date. Preference points were applied only to Urban. After the corrected application of the preference points, Lucky Dog, LLC has the lowest evaluated price.

Therefore award is recommended to Lucky Dog, LLC.