



City Manager's Office

City of Arts & Innovation

February 21, 2019

Elizabeth Hernandez, Senior Program Specialist (elizaher@rivco.org)
County of Riverside DPSS – Adult Services Division
CoC – CORE (Coordination, Oversight, Reporting and Evaluation) Region
1111 Spruce Street
Riverside, CA 92507

SUBJECT: HOUSING ASSISTANCE AND SUPPORT PROGRAM – 2018 (DPARC-564A) BID PROTEST/APPEAL

Dear Ms. Hernandez:

The City of Riverside is submitting this bid protest letter as a result of the following issues – unduly constrained competition and unfair bid process – identified with the Request for Proposal (RFP) process for the Housing Assistance and Support Program – 2018 (DPARC-564A) – that was released by the Riverside County Department of Public Social Services (DPSS) on November 16, 2018; awards were posted on February 14, 2019.

Issue No. 1: Conflicting Pre-Bid Conference Direction and Unduly Constrained Competition

As was required, City staff attended the mandatory bidder's conference to receive instructions ahead of the submittal deadline. County staff informed attendees that each entity should submit a single application, detailing each of the projects on separate line items (under H-1 Cost Proposal) for which the entity was seeking funding. The City's application was comprised of six independent components (detailed below).

BUDGET CATEGORIES	DESCRIPTION OF SERVICES	AMOUNT REQUESTED
2881 Hulen Place, Building A	Capital Improvements	\$691,661
2801 Hulen Place, Building B	Capital Improvements	\$672,158
2800 Hulen Place, Building C	Capital Improvements	\$606,575
2880 Hulen Place, Building E	Capital Improvements	\$554,888
East Parking Lot	Capital Improvements	\$74,400
Soft Cost	Architectural, fees, permits, civil, engineer, etc.	\$400,000
	TOTAL	\$2,999,682

At the Riverside County Board of Governance (BOG) meeting on February 7, 2019, BOG Members were not shown the details of each application; instead, the cumulative sum of the budget categories was shown. When BOG Members reviewed the list of applications, the City's application was disregarded based on the total requested amount without consideration of the application's various components. In effect, following County staff direction detrimentally impacted the City's application as several organizations submitted multiple applications that were awarded funding.

Issue No. 2: Procedural Flaw

The vendors that responded to RFP DPARC-564A did not receive an official notice from DPSS about the meeting where the BOG was expected to review the CESH and HEAP funding applications. The City only knew about this meeting as the City's Mayor and Housing Authority Manager are BOG Members.

Issue No. 3: Procedural Flaw

The RFP did not outline the complete application review process, scoring/evaluation criteria, BOG review and approval, nor whether the BOG recommendations would have to be considered by the Riverside County Board of Supervisors for final approval. The RFP also did not outline if or how funding would be distributed between youth projects, capital improvement projects, or service projects. Vendors should have been fully informed of the process so that they had the opportunity to provide input during the BOG meeting. This lack of clarity resulted in the BOG funding applications that scored lower than the City's application.

Issue No. 4: Unduly Constrained Competition

During the BOG meeting, County legal counsel (Counsel) informed all BOG Members that for any Member who represents an entity that has submitted a proposal for funding, there is a perceived or potential for a conflict of interest. Given this direction, along with prompts from other County officials, Mayor Bailey was forced to recuse himself from the meeting and was informed that he had to leave the room. Natalie Komuro, Deputy County Executive Officer, attempted to clarify the Counsel's direction and was also informed that anyone with a conflict of interest would need to leave the room. Notwithstanding, other officials with same perceived or potential for a conflict of interest were allowed to remain in the room.

After Mayor Bailey had left the room, DPSS staff asked the Counsel if the Continuum of Care (CoC) Chair Michelle Davis, who has an ex-officio seat with no voting rights on the BOG, had a conflict of interest as well. Mrs. Davis informed Counsel that when the BOG reviewed applications during the 2018 CoC grant funding cycle, the BOG determined that she did not have a conflict of interest and would be representing the CoC as the Chair. As she was the only staff person in the room from the City, she would have been available to answer any questions pertaining to the City's application, as had been previous practice and was allowed for other applicants.

Counsel indicated that she too had to recuse herself from the meeting, which is not consistent with previous practice or the fact that Mrs. Davis maintains the same standing at the BOG as Mrs. Komuro. This action resulted in the City not being able to make its case during the discussion of the applications (Item 5d), nor to seek clarification from DPSS staff as to why the City's rehabilitation project for each building did not receive its own line item on the project list; if the BOG felt that the total Hulen Place Campus project was "too much," the BOG had the ability to select a component of the application, seeking to rehabilitate any one of the four buildings that comprised the City's application. The other vendors in the room had the ability to answer questions and provide input which placed the City at a significant disadvantage.

Concern No. 5: Flaw in the Appeals Process

The County's public records request process allows for a ten-day turnaround, while applicants only have five business days from when the bid results are posted to submit an appeal. Given this timeline, it is more than possible that the public records request will not be completed before the appeal due date. This is a major flaw in the system as it does not provide vendors with adequate time to request documentation to review for a bid protest.

As a point of reference, the City submitted a public records request letter on February 8, 2019 requesting materials from the BOG meeting held on February 7, 2019. Subsequent to the submittal of the City's letter, a tentative award notification was posted by DPSS, well within the ten-day public records request

process. While DPSS attempted to respond in a timelier manner, its response to the City's letter is incomplete as critical requested information was not provided. The City reserves its right to amend this appeal if additional requested materials are provided that further call into question the BOG proceeding.

Concern No. 6: Procedural Flaw

The BOG was informed that the County of San Bernardino met on their HEAP and CESH funding awards and their meeting lasted ten hours. The County of Riverside started its BOG meeting at 9 a.m. and did not start the discussion on the HEAP and CESH funding until closer to 10 a.m. The meeting had ended at 11:30 a.m. It is difficult to conclude that appropriate consideration was given to each application in this timeframe, particularly when backup materials were not provided to review in advance of the meeting. The lack of a deliberative process resulted in a disorganized and frenzied situation.

Concern No. 7: Procedural Flaw

Applications that were scored lower than the application submitted by the City were funded despite that the BOG did not reconcile the scoring differences. The BOG did not receive instructions as to the scoring criteria or priorities in the RFP that would then create justification for allocating additional points to other applications.

The totality of the concerns outlined above, combined with the lack of information provided and the incomplete response to the City's public records request, leaves the outcome of this process open to interpretation. Accordingly the City is requesting the BOG reconsider its decision, appropriately evaluate the City's application, and allocate funding for the proposed projects. Given this, this may be an appropriate time to evaluate and reconsider the structure and operability of the CoC.

I look forward to discussing the aforementioned issues with the County as all vendors should be treated equally and fairly, and be well informed of this process. Should you have any questions, please contact me at (951) 826-5553 or by email at mlopez@riversideca.gov.

Sincerely,



Moises Lopez
Deputy City Manager

cc: Sarah Mack, Assistant County Executive Officer/DPSS Director
Tammy Marine, Chair of the Board of Governance
Al Zelinka, City Manager
Cheryl-Marie Hansberger, Chief of Staff – Office of the Mayor
Emilio Ramirez, Office of Homeless Solutions Director
Michelle Davis, Housing Authority Manager