

Kelly M. Crowe

From: Nunez, Xiomara <Xiomara.Nunez@dot.state.fl.us>
Sent: Wednesday, September 22, 2021 3:48 PM
To: Kelly M. Crowe
Cc: Steven P. McAlearney; Carolyn Sheldon; D6-Local Programs
Subject: [EXTERNAL] RE: 435497-2-58 Southard Street Enhancements

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Good Afternoon Kelly,

The Department cannot concur with the City's request for concurrence to award. The City submitted the request for concurrence along with the bid tabs on 8/18/2021. Based on the information provided by the City and further consultation with Central Office, the Department cannot ensure the this project was competitively bid. Title 23 CFR 635.114 requires the construction contract to be awarded based on the lowest responsible bid submitted by a bidder meeting the criteria of responsibility. Furthermore, we noted a high percentage of unbalanced items based on the bid comparison. The bid analysis process, pursuant to 23 CFR 635.114(c) is an examination of the unit bid prices for reasonable conformance with the engineers estimated prices.

Should the City decide to proceed with awarding the contract, it would not be eligible for federal aid. Please advise how the City would like to proceed with the subject project. Feel free to contact me if you have any questions.

Regards,

Xiomara Nunez, MBA, PMP
District Local Program Administrator

Florida Department of Transportation
District VI-Adam Leigh Cann Building
Program Management Room 6112B
1000 NW 111th Avenue - Miami, Florida 33172
Phone: (305) 470-5404
Email: xiomara.nunez@dot.state.fl.us



From: Kelly M. Crowe <kcrowe@cityofkeywest-fl.gov>
Sent: Wednesday, August 18, 2021 10:17 AM
To: Brito, Alina <Alina.Brito@dot.state.fl.us>
Cc: Steven P. McAlearney <smcalearney@cityofkeywest-fl.gov>; Carolyn Sheldon <csheldon@cityofkeywest-fl.gov>
Subject: RE: [EXTERNAL] RE: [EXTERNAL] RE: 435497-2-58 Request for Concurrence

Hi Alina,

I have attached the concurrence request letter. Also, I have attached the bid comparison for reference. In summary, the bids were much higher than the Engineer's estimate; however, I explain some of the factors involved in the letter. Please let me know if you need anything else.

Kelly

From: Brito, Alina <Alina.Brito@dot.state.fl.us>
Sent: Wednesday, August 18, 2021 8:42 AM
To: Kelly M. Crowe <kcrowe@cityofkeywest-fl.gov>
Subject: [EXTERNAL] RE: [EXTERNAL] RE: 435497-2-58 Request for Concurrence

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Kelly,

Email me the request and once we concur, we can upload to GAP the agency request letter, bid tabs and FDOT Concurrence letter and tracker.



Alina Brito

Contract Coordinator
Local Agency Program
Consultant
Phone : (305) 470-5141
Email : alina.brito@dot.state.fl.us
1000 NW 111th Avenue, Room 6112
Miami, FL 33172



From: Kelly M. Crowe <kcrowe@cityofkeywest-fl.gov>
Sent: Tuesday, August 17, 2021 5:05 PM
To: Brito, Alina <Alina.Brito@dot.state.fl.us>
Subject: RE: [EXTERNAL] RE: 435497-2-58 Request for Concurrence

Alina,

Do you want us to upload this into GAP or e-mail you the documents, letter and tracker. Please advise.

Thanks,

Kelly

From: Brito, Alina <Alina.Brito@dot.state.fl.us>
Sent: Monday, August 16, 2021 5:00 PM

To: Kelly M. Crowe <kcrowe@cityofkeywest-fl.gov>
Subject: [EXTERNAL] RE: 435497-2-58 Request for Concurrence

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Kelly,

- **Enter Date the District issued the NTP** to advertise the above reference project.
 - The project was advertised accordingly and **Enter Number of Bids** that were received.
 - Provide a statement similar to “The City has analyzed the bids and determined the bidders were responsive and responsible. All required information was provided”.
 - Provide a statement similar to “The City is requesting concurrence to award the contract to the lowest responsive and responsible bidder **Provide Name of Bidder** in the amount of **\$XX,XXX.XX** .
 - Provide a statement similar to “The Public Works Director and Engineer of Record recognized the generally the bidders ‘s unit prices are similar to the Engineer’s Estimate. In some instances, the bidder unit price was either higher or lower, but the variances are still consistent with Industry Standards”.
 - Submit the Document tracker with all documents uploaded to GAP and note the Letter
 - Attach the bid tabulations, bid analysis, engineers estimate and for each bid. See sample attached
- Call me if you have any questions.

From: Brito, Alina
Sent: Monday, August 2, 2021 11:31 AM
To: Kelly M. Crowe <kcrowe@cityofkeywest-fl.gov>
Cc: Nunez, Xiomara <Xiomara.Nunez@dot.state.fl.us>; Steven P. McAlearney <smcalearney@cityofkeywest-fl.gov>;
Goins, Andre <Andre.Goins@dot.state.fl.us>
Subject: RE: 435497-2-58 Re- Bid

Kelly,

Thank you for updating me. Please confirm your intent to reject the bids and rebid after the meeting with your legal counsel. Keep me posted.

All the best,



Alina Brito

Contract Coordinator
Local Agency Program
Consultant

Phone : (305) 470-5141

Email : alina.brito@dot.state.fl.us

1000 NW 111th Avenue, Room 6112
Miami, FL 33172



From: Kelly M. Crowe <kcrowe@cityofkeywest-fl.gov>
Sent: Monday, August 2, 2021 10:05 AM
To: Brito, Alina <Alina.Brito@dot.state.fl.us>
Cc: Nunez, Xiomara <Xiomara.Nunez@dot.state.fl.us>; Steven P. McAlearney <smcalearney@cityofkeywest-fl.gov>; Goins, Andre <Andre.Goins@dot.state.fl.us>
Subject: RE: [EXTERNAL] RE: 435497-2-58 F/u to Prime vs. Subcontractor question

Hi Alina,

We have a Non-Collusion Affidavit in our contract documents (attached for reference). I have highlighted a passage in the attached document that is very similar to Item #4 below. I have no evidence or suspicion that there was collusion between the two firms; however, given the language below and our Non-Collusion Affidavit, rejecting the two bids appears to be prudent. We will confirm with our City Attorney who just returned from vacation.

I will draft an Executive Summary for the rejection of both bids and intend to have this item on the August 17 City Commission Agenda. The city intends to re-bid the project afterwards and will hold another mandatory pre-bid meeting.

Please let me know if you need anything else.

Kelly

From: Brito, Alina <Alina.Brito@dot.state.fl.us>
Sent: Wednesday, July 28, 2021 1:22 PM
To: Kelly M. Crowe <kcrowe@cityofkeywest-fl.gov>
Cc: Nunez, Xiomara <Xiomara.Nunez@dot.state.fl.us>; Steven P. McAlearney <smcalearney@cityofkeywest-fl.gov>; Goins, Andre <Andre.Goins@dot.state.fl.us>
Subject: [EXTERNAL] RE: 435497-2-58 F/u to Prime vs. Subcontractor question

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Kelly,

At the State and District level the following information is provided: the bidders would be required to submit, as part of their bid, a certification which address the following:

The Bidder hereby declares that the undersigned is the person or persons responsible within the firm for the final decision as to the price(s) and amount of this bid and the Bidder further declares that:

1. The price(s) and amount of this bid have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition with any other contractor, bidder or potential bidder.
2. Neither the price(s) nor the amount of this bid have been disclosed to any other firm or person who is a bidder or potential bidder on this project and will not be so disclosed prior to the bid opening.
3. No attempt has been made or will be made to solicit, cause, or induce any firm or person to refrain from bidding on this project, or to submit a bid higher than the bid of this firm, or any intentionally high or non-competitive bid or other form of complementary bid.
4. The bid is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any other firm or person to submit a complementary bid.
5. The Bidder has not offered or entered into a subcontract or agreement regarding the purchase of materials or services from any other firm or person, or offered, promised, or paid cash or anything of value to any other Bidder or person, whether in connection with this or any other project, in consideration for an agreement or promise by any other firm or person to refrain from bidding or to submit a complementary bid on this project.

6. The Bidder has not accepted or been promised any subcontract or agreement regarding the sale of materials or services to any other firm or person and has not been promised or paid cash or anything of value by any other firm or person, whether in connection with this or any other project, in consideration for the firm's submitting a complementary bid, or agreeing to do so, on this project.

Being in the prime contractor role as part of one bid and a subcontractor role as part of another bid, would make it very difficult to certify to items 1, 2, 4, 5, and 6.

If the local agency has similar requirements in their bidding documents, those requirements would need to be reviewed. Another thing to look at is whether these two bidders are affiliated in any way. If you can provide the names of the bidders, we could look into that. Please advise.



Alina Brito

Contract Coordinator
Local Agency Program
Consultant

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Email : alina.brito@dot.state.fl.us

1000 NW 111th Avenue, Room 6112
Miami, FL 33172



From: Brito, Alina

Sent: Wednesday, July 28, 2021 10:14 AM

To: Kelly M. Crowe <kcrowe@cityofkeywest-fl.gov>

Cc: Nunez, Xiomara <Xiomara.Nunez@dot.state.fl.us>; Steven P. McAlearney <smcalearney@cityofkeywest-fl.gov>

Subject: RE: [EXTERNAL] RE: 435497-2-58 F/u to Subcontractor question

Kelly,

That is different . Let me investigate this.

Thanks



Alina Brito

Contract Coordinator
Local Agency Program
Consultant

Phone : (305) 470-5141

Email : alina.brito@dot.state.fl.us

1000 NW 111th Avenue, Room 6112
Miami, FL 33172



From: Kelly M. Crowe <kcrowe@cityofkeywest-fl.gov>
Sent: Tuesday, July 27, 2021 4:07 PM
To: Brito, Alina <Alina.Brito@dot.state.fl.us>
Cc: Nunez, Xiomara <Xiomara.Nunez@dot.state.fl.us>; Steven P. McAlearney <smcalearney@cityofkeywest-fl.gov>
Subject: RE: [EXTERNAL] RE: 435497-2-58 F/u to Subcontractor question

EXTERNAL SENDER: Use caution with links and attachments.

Hi Alina,

The question may have been misunderstood. The situation we would like clarification on is: We have two bids, Contractor A and Contractor B. They both submitted bids as primes and have each other listed as a subcontractor in each other's bids as follows:

	BID A	BID B
Prime Contractor	Contractor A	Contractor B
Subcontractor	Contractor B	Contractor A

There has been some confusion on this and we would like input from FDOT Procurement. Please let me know if you have any further questions.

Thanks,

Kelly

From: Brito, Alina <Alina.Brito@dot.state.fl.us>
Sent: Wednesday, July 21, 2021 10:40 AM
To: Kelly M. Crowe <kcrowe@cityofkeywest-fl.gov>
Cc: Nunez, Xiomara <Xiomara.Nunez@dot.state.fl.us>
Subject: [EXTERNAL] RE: 435497-2-58 F/u to Subcontractor question

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Kelly,

The response from FDOT procurement is "subcontractors can participate in the same competing contract as long as the subcontractor communicates to the primes they are participating on the various teams.

I hope this helps.



Alina Brito

Contract Coordinator
Local Agency Program
Consultant

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Email : alina.brito@dot.state.fl.us

1000 NW 111th Avenue, Room 6112
Miami, FL 33172



From: Brito, Alina

Sent: Wednesday, July 21, 2021 10:25 AM

To: Kelly M. Crowe <kcrowe@cityofkeywest-fl.gov>

Subject: F/u to Subcontractor question

Kelly,

I have reached out to the FDOT procurement office regarding your question “can a subcontractor participate on two competing teams for the same federal aid contract”? Still waiting for a response.



Alina Brito

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