



Clarence Hunt, President
462 Elwood Ave, Suite 9
Oakland, CA 94610

Matter of: *HR Management Procurement Award Protest*
File: *RFP 2023-1585*
Date: *19 July 2022*
To: *Clarence Hunt for the Protestor*

Dear Mr. Hunt:

This will respond to HR Management's protest of Alameda-Contra Costa Transit District's ("District") Notice of Intent to Award pursuant to RFP 2023-1585. Specifically, your protest alleges that HR Management should have been selected based on its status as an African American DBE and SBE. The protest further contends that the vendors selected for an award pursuant to this solicitation were selected based on discriminatory factors in violation of various laws. A number of these allegations are made "upon information and belief" and are demonstrably untrue.

With respect to HR Management's assertion that the solicitation should have had a specific set-aside for African American DBEs, such a process is counter to California Proposition 209, which amended the California State Constitution, Section 31(a), to state, "The State shall not discriminate against, *or grant preferential treatment to*, any individual or group *on the basis of race, sex, color, ethnicity, or national origin* in the operation of public employment, public education, *or public contracting*." Mandating that this RFP be parceled out to African American DBEs could thus violate both *Proposition 209* and the California State Constitution.

Importantly, the District used a blind scoring process to evaluate proposals for this solicitation. This means that the evaluators were not provided with the identity of the vendor whose proposal they evaluated. Section 3B-C of the RFP listed the following evaluation factors in descending order of importance: total cost/fees (35); technical and management approach (30); offeror's information and understanding of project objectives (20); capabilities and experience (10); and size/location of the firm and additional factors (5).

In January 2022, Contracts Compliance staff evaluated this opportunity for the possibility of creating a certified small business enterprise (SBE) set-aside or establishing a certified SBE goal. The resulting analysis showed that there was an insufficient pool of certified SBEs to establish either of the two. However, Evaluation Criteria #4 (Additional Factors, Size and Location of Firm) afforded the evaluation panel the opportunity to equally consider the proposers' small business certification status and business location. HR Management scored 12 out of a possible 15 points on this criterion. However, HR Management's overall raw score of 132 points ranked 10 out of the 11 proposals and did not meet the 70% cut-off threshold¹ to be in the competitive range (its raw score of 132 points put it at 67%).

Finally, your allegations of discriminatory selection could not be further off base. Indeed, every member of the evaluation panel reviewing the proposals for this solicitation is a person of color. The District's employee population is made up of 89% persons of color. And fatal to your claim of discrimination is the fact that four of the six businesses selected under this procurement qualify as an SBE, MBE, DBE, WOSB and/or MWBE. Accordingly, your protest is denied.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Frederick Walls', is written over a horizontal line.

Frederick Walls
Procurement and Materials Management, Director
Alameda Contra Costa Transit District
10626 International Blvd | Oakland, CA 94603
fwalls@actransit.org

¹ The District determined, in accordance with the solicitation, that offerors whose submittals did not receive an initial score of at least 70.0 would be determined not to be in the competitive range and would, therefore not be considered further in the selection process.