



OVERVIEW OF COMPETITIVE BID PROCESS

Kevin Hyde -
Foley & Lardner LLP



JEA ADVISORS

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OVERVIEW OF COMPETITIVE BID PROCESS

ITN is a method of competitively soliciting replies from one or more interested parties with whom JEA may negotiate

- Grounded in Section 3-110 of the JEA Procurement Code (1996, as amended)
- JEA Procurement Code in turn consistent with and derived from F.S. 287

Twin goals of the ITN Process

- Adherence to “procedures that ensure fairness is essential to the maintenance of public confidence in the value and soundness of the important process.” (JEA Procurement Code)
- Encourage the greatest amount of competition among Respondents so as to maximize potential outcomes for JEA, its customers and community, including meeting the minimum requirements set forth by JEA Board

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Procurement Requirements

- The ITN – issued on August 2, 2019 when posted on the JEA website – is a process similar to other ITNs used by JEA as well as State and Federal Agencies
 - Many of the rules/concepts are similar to what was used with the downtown HQ building

First Phase – Solicitation Phase (August 2, 2019 – October 7, 2019)

- ITN posted on JEA website
- Process for requesting Replies
- Potential Respondents could submit written questions relating to ITN
- JEA responded to those questions – available for all to see – on September 16, 2019
- Public meeting will be held to formally receive Replies (Bid Opening)

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Second Phase – Evaluation (October 7, 2019 – October 21, 2019)

All Responsive Replies will be evaluated against the Evaluation Criteria set forth in Section 3.2.3 of the ITN

- Replies will be evaluated to ensure that only those Replies which meet the minimum criteria will be further considered
- After “Mandatory Requirements” Review, Replies will be evaluated based on criteria provided in the ITN, including:
 - Achieving JEA’s Goals in the ITN
 - Demonstrating Experience and Customer Commitment
 - Ability and Willingness to Provide Economic Development and Benefits to Jacksonville
 - Willingness to Provide Employee Retention and Benefits
 - Provide an Innovative Plan
 - Demonstrate commitment to community stewardship
 - Demonstrate Financial Stability
- A competitive range of Respondents with which to commence negotiations will be established

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Third Phase – Negotiation *(Estimated to begin late October 2019)*

- Negotiation Team will meet with the selected Respondents to negotiate terms of a potential contract [negotiations not open to public but are recorded and later released]
 - No set number of Respondents with which JEA will negotiate
 - SMEs will provide Negotiation Team members with input as needed
- After negotiations conclude, the Negotiation Team will meet in a public meeting to discuss the recommended award
- At the conclusion of the JEA process, a Notice of Intent to Award will be posted on the JEA procurement page

HOW IS THE INTEGRITY OF THE ITN PROCESS ENSURED?

The idea of absolute integrity and impartiality in the procurement process is deeply embedded in Florida law.

The purpose of laws related to public bidding is to “protect the public against collusive contracts; to secure fair competition upon equal terms to all bidders; to remove not only collusion but temptation for collusion and opportunity for gain at public expense; to close all avenues of favoritism and fraud in its various forms; to secure the best values for the [public body] at the lowest possible expense, and to afford an equal advantage to all desiring to do business with the [public body], by affording an opportunity for an exact comparison bids.”

Wester v. Belote, 138 So. 721, 723-24 (Fla. 1931)

HOW IS THE INTEGRITY OF THE ITN PROCESS ENSURED?

“Cone of Silence” – prohibition of Ex Parte communications between potential bidders and JEA and its representatives

- Cone of Silence began with the issuance of the ITN (August 2, 2019) and will continue through the award of a contract and from the initiation of a protest of an Award or contract through resolution of such protest
- Founded in Section 1-110 of JEA Procurement Code and F.S. 287.057(23)

What is Ex Parte communication?

- Any oral or written communication relative to a solicitation, evaluation, Award or Contract controversy that occurs outside of an advertised public meeting called by JEA relating to the procurement

HOW IS THE INTEGRITY OF THE ITN PROCESS ENSURED?

Why does “Cone of Silence” exist?

- To ensure that no vendor is placed at informational or competitive disadvantage while the procurement is ongoing
- To prohibit vendors from making contact while a procurement is pending in an attempt to influence the decision makers
- Because ex parte communications have the potential to deny competitive, fair, open and impartial consideration to companies that may respond to the ITN

What happens if “Cone of Silence” is not observed?

- Basis for Respondent to be disqualified
- Basis for JEA employee or representative to be disqualified from further participation
- JEA Board or City Council member may not be able to vote on matter
- Bid protest against recommended or approved award based on improper ex parte communications
- Additional statutory penalties under certain circumstances

HOW IS THE INTEGRITY OF THE ITN PROCESS ENSURED?

To whom does the “Cone of Silence” apply?

- Potential bidders
- JEA employees, agents and representatives
 - Only exception at this point are the JEA Designated Procurement Representatives (John McCarthy and Jenny McCollum)
 - During evaluation and negotiation contact initiated by JEA pursuant to the terms of the ITN (such as requests for clarification and written or oral negotiations) can be made, but record of contact and/or recordings must be made
- JEA Board Members
- City Council Members
- Mayor’s office

WHEN IS THE OPPORTUNITY FOR PUBLIC DEBATE AND COMMENT?

Three lawful periods for public review, comment and consideration after Negotiation Team makes its award recommendation at a public meeting:

- JEA Board will review, discuss and decide whether to approve the recommended Award of Contract
 - Public meetings, opportunity for public comment
- City Council will review, debate and vote whether to move forward with any contract approved by JEA Board
 - Public meetings, opportunity for public comment
- Voter Referendum