



**Independent Procurement Review Report**

**Why We Did This Review**

In accordance with Atlanta City Charter Chapter 6, Section 2.603, our office is authorized to review all solicitations with an aggregate value of \$1,000,000 or greater, seeking approval by the Atlanta City Council, for file completeness, conflicts of interest, and other areas of perceived deficiency.

<b>FC#</b>	1190659
<b>Estimated Dollar Amount:</b>	\$10,400,000
<b>Type of Procurement:</b>	Invitation for Bid
<b>Contract Description:</b>	RMC Clayton WRC Digester Improvements and Rehab, Phase 1
<b>Requesting Department:</b>	Department of Watershed Management
<b>All Proponents:</b>	Heavy/Sol-DI JV Reeves Young/Benkel, LLC Western Summit/Anatek Construction Joint Venture WWPS / Civil Works, a Joint Venture
<b>DOP Responsive Proponents:</b>	Heavy/Sol-DI JV Reeves Young/Benkel, LLC Western Summit/Anatek Construction Joint Venture WWPS / Civil Works, a Joint Venture
<b>Recommended Awardee:</b>	Western Summit/Anatek Construction Joint Venture

**TABLE OF FINDINGS**

Review Area	Risk/Criteria	Results	DOP Response
<b>Evaluation Team</b>	DOP procedures require evaluators to possess the necessary and appropriate experience needed to evaluate the proposals or offerors submitted to the city.	No findings identified	No response needed
<b>Solicitation</b>	<ul style="list-style-type: none"> <li>Bids shall only be evaluated on requirements and evaluation criteria outlined in the formal solicitation (DOP SOP 4.3.6.(E)(3)). Having selection criteria established in the solicitation can help prevent bid manipulation.</li> <li>Evaluation criteria that are too vague or subjective can allow for manipulation of the scores</li> </ul>	The solicitation was previously cancelled under FC-10476.	No response needed
<b>Advertisement/ Addenda</b>	<ul style="list-style-type: none"> <li>Changing the solicitation criteria to favor a particular proponent is a red flag of potential bid rigging (International Anti-Corruption Resource Center).</li> <li>Too many addenda could indicate unclear specifications or unclear scope of work, which could also favor a particular proponent.</li> </ul>	DOP issued four addenda.	No response needed
<b>Submittal</b>	The city code provides that the city shall select no less than three submittals solicited from an RFP that it deems as the most responsible and responsive; provided, however, that if three or fewer offerors respond, the requirement shall not apply (City Code Sec. 2-1189).	No findings identified	N/A

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<p><b>Responsive Review</b></p>	<ul style="list-style-type: none"> <li>DOP procedures require findings to be recorded on a responsive checklist which identifies specific submittal requirements for the project and identifies a bidder's compliance with those required documents.</li> <li>Unclear or inconsistent responsiveness determinations could be a red flag of bid manipulation.</li> </ul>	<p>DOP found all bidders responsive, but IPRO noted the following regarding the responsiveness check:</p> <p><b>Bidder #1 and #4</b></p> <ul style="list-style-type: none"> <li>DOP deemed both bidders responsive, despite noting that they answered "No" on Form 2 ("Contractor Disclosure Form") to question 1 and did not disclose having previous business relationships with the city. The responsiveness determinations in these cases are inconsistent with DOP's determination in previous solicitations.</li> </ul> <p><b>Bidder #1</b></p> <ul style="list-style-type: none"> <li>The joint venture agreement was not notarized. IPRO noted that DOP is seeking a waiver per legislative item 20-O-1142.</li> </ul> <p><b>Bidder #2</b></p> <ul style="list-style-type: none"> <li>The notary commission expiration on Form 1 was entered incorrectly, even though the notary's commission was valid.</li> </ul>	<p>Response Provided</p> <p><b>Bidder #1 and #4</b> In response to Question 1 on Form 2 The Contract Specialist (CS) researched resumes and personnel submitted to work on this project on behalf of Bidder #1 and Bidder #4. Upon extensive review it was determined to the best of knowledge that personnel submitted for this project had not worked previously on a City of Atlanta project for Bidder #1 or Bidder #4 in the past five (5) years</p> <p><b>Bidder #1</b> The following is being requested to be waived by the Office of Contract Compliance in the Procurement and Real Estate Code: "Waive the notary requirement contained in Section 2 1369.1 (B) of Article X, Procurement and Real Estate Code of the City of Atlanta Code of Ordinances, on behalf of the Department of Watershed Management". The notary section is in the Joint Venture Agreement and housed in the Office of Contract Compliance documents. The Office of Contract Compliance has mitigated the Joint Venture notarization issue by editing and bolding the requirements within the Appendix A documents as seen below. On pages 5, 10 and 11 you will note in Bold font that:</p>

Review Area	Risk/Criteria	Results	DOP Response
			<ul style="list-style-type: none"> <li>• “Proponents must submit a signed and notarized Joint venture agreement.”</li> <li>• “Note: Each Joint Venture (JV) team(s) must include a signed/notarized copy of their JV agreement with their bid submission. Each JV team must consist of at least one City of Atlanta certified M/FBE partner.”</li> <li>• “All Joint Venture agreement must be signed and notarized.”</li> </ul> <p>Bidder #2 The notary’s commission was valid via the seal provided.</p>
<b>Conflict of Interest</b>	The city’s standards of conduct prohibit employees from having financial conflicts of interests. Contracts must be awarded and administered free from improper influence or the appearance of impropriety.	No finding identified	No response needed
<b>Evaluation</b>	<ul style="list-style-type: none"> <li>• DOP procedures require procurement staff to compile the evaluation scores, including those from risk management and contract compliance.</li> <li>• Public procurement practice states that any arithmetical errors should be corrected, and scores should be recorded in grids/matrices (NIGP).</li> <li>• According to the International Anti-Corruption Resource Center, bids that are too close together (less than 1%) or too far apart (more than 20%) could be indicators of collusive bidding. Not applicable for RFPs.</li> </ul>	Bid spread was larger than 20% for this solicitation. This could be an indication of collusive bidding or unclear scope.	No response needed
<b>Cancellation</b>	<ul style="list-style-type: none"> <li>• The Government Accountability Office states that the use of standard language such as “in the best interest of the city” without a specific justification for cancellation could be a fraud indicator.</li> <li>• Transparency International states that effective record-keeping of decisions and reasons for cancellation promotes accountability and transparency.</li> </ul>	N/A	N/A

Review Area	Risk/Criteria	Results	DOP Response
<b>Award</b>	A contract file should include all project items, to confirm that each phase of the procurement was facilitated appropriately and audit-ready (DOP SOP Sec. 3.18)	No finding identified	No response needed