



**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.

Solicitation#	1200348
Estimated Dollar Amount:	\$100,000,000
Type of Procurement:	Invitation for Bid
Contract Description:	South Deicing Complex Ramp
Requesting Department:	Department of Aviation
All Proponents:	Archer Western/Lewis Contracting JV Matthews-Kelly JV Kiewit-Anatek-Terrell, a Joint Venture
DOP Responsive Proponents:	Archer Western/Lewis Contracting JV Matthews-Kelly JV Kiewit-Anatek-Terrell, a Joint Venture
Recommended Awardee:	Archer Western/Lewis Contracting JV

**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>	No findings identified	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 nine addenda, which extended the due date twice, responded to questions twice, revised Exhibits C & E twice, revised Exhibit D three times, replaced Part 2, and changed the DOP contact person.	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	<p>A minority partner of a joint venture submitted a letter of intent to subcontract with a competing joint venture.</p> <p>According to the International Anti-Corruption Resource Center,</p>	<p>DOP Response</p> <p>The International Anti-Corruption Resource Center has crafted language to prohibit firms from attempting to collude or rig (bid-rigging) a public solicitation. However, it is the responsibility</p>

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	<p>requirement shall not apply (City Code Sec. 2-1189).</p>	<p>the winning bidder hiring a losing bidder as a subcontractor for the same project may indicate collusive bidding practices.</p>	<p>of each municipality to prove that an identified firm attempted to commit collusion or bid-rigging by submitting pricing outside of a reasonable price point to the alternate bidder. We do not have any indication of a violation in the instant case.</p> <p>The City of Atlanta strongly encourages certified minority and female business enterprises (M/FBEs) to participate on contracts of \$5,000,000 and greater as the minority interest holder of a joint venture team (prime contractor). The firm may also participate as a certified M/FBE at the subcontractor level as part of a competing team. We have not found any indication of anti-competitive activities. Bidders who submit overpriced bids are usually disqualified from moving forward in the award process (whether they are minority owned, female owned or majority owned).</p>
<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 three bidders responsive, however, IPRO noted the following issues:</p> <ul style="list-style-type: none"> <li>• The winning bidder's Joint Venture Agreement was not notarized.</li> <li>• One bidder failed to get two subcontractors listed on the subcontractor utilization form to sign the letter of intent.</li> <li>• A joint venture partner did not submit a certificate for the Authority to Transact Business in the State of Georgia.</li> <li>• One bidder listed an evaluator on two out of three required references, and a minority JV partner only submitted 2 references.</li> </ul>	<p><b>DOP Response</b></p> <p>The evaluation process includes input from the user department(s), the Department of Procurement, the Office of Contract Compliance, and Risk Management.</p> <p>An ordinance will be forthcoming waiving the requirement of a notary in the JV agreements.</p>

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<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 findings 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>	The bid spread is 25%	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
<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 findings identified	No response needed