

December 27, 2023

Sent via E-mail

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Re: Supplement to Formal Protest to RFPSDOR240116 | St. Charles License Office

Protesting Party: ACM LLC
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Wentzville, MO 63385

Point of Contact: Amy Fila
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Attorney: Alexander C. Barrett
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Ms. Ronimous:

ACM LLC (“ACM”) submits this supplemental filing in connection with its protest of the award of the contract for RFPSDOR240116 (the “RFP”), dated December 21, 2023. As noted in that protest, ACM submitted a sunshine request to DOR and reserved the right to supplement its protest based on the information received.

We have received some information from DOR in response to the sunshine request. That information raises more questions than it answers and further confirms that there are significant flaws in DOR’s scoring of the vendor experience section of the RFP. The information we received from DOR also appears to be incomplete. Accordingly, we have sought clarification and continue to reserve the right to further supplement this bid protest.

In its protest, ACM pointed out that the RFP left considerable uncertainty as to what time period DOR actually considered when “verifying” the number of MV and DL transactions ACM’s proposed CLOM (Arin Fila) had completed. The information received in response to our sunshine request *appears* to indicate that DOR agrees the appropriate time frame for

consideration is November 22, 2013 – November 22, 2023. *See Documents Provided (9)*. This remains unclear, however, since that spreadsheet lists both a “5 Years Prior” and a “10 Years Prior” timeframe. We are unsure why the “5 Years Prior” period is included. To be clear, DOR should have used the “10 Years Prior” period for verification purposes.

We also asked DOR to provide documents reflecting the number of MV and DL transactions DOR “verified” Ms. Fila to have processed between November 22, 2013 and November 22, 2023. The documents we received are materially incomplete. As an example, the spreadsheet labeled Documents Provided (PI Redacted) (3) purports to show the number of MV transactions Ms. Fila performed under User ID DF9401 between November 1, 2013 and December 18, 2023. The transactions are dated and appear in chronological order. We note that no MV transactions are listed prior to January 4, 2018. In total, the spreadsheet lists 10,271 transactions. The spreadsheet labeled Documents Provided (PI Redacted) (5) is a comparable spreadsheet for User ID DF9170, for the same time period. It does not show any MV transactions prior to December 18, 2017. In total, this spreadsheet lists 3,450 MV transactions. Finally, the spreadsheet labeled Documents Provided (PI Redacted) (6) purports to show the MV transactions Ms. Fila processed under User ID DF4664. For reasons we do not understand, this spreadsheet lists no transactions.

This data is wrong. As Documents Provided (9) reflects, Ms. Fila has been working at ACM’s various license offices since May 2013. She unquestionably processed MV transactions prior to December 2017 (the date of the first MV transaction listed on the above spreadsheets).¹ Thus, DOR’s data is significantly under-reporting the number of MV transactions Ms. Fila processed because it does not include any transactions she processed in the first four years she was working in ACM’s license offices. It is also unclear why DOR has no record of **any** transactions she processed at the Harvester office under User ID DF4664. Regardless, taken together Documents Provided (PI Redacted) (3) and Documents Provided (PI Redacted) (5) reflect that Ms. Fila processed 13,721 MV transactions, which is more than the 12,136 MV transactions DOR allegedly “verified” in the Evaluation Summary.

Equally troubling, Documents Provided (PI Redacted) (3) does not list any transactions Ms. Fila processed after August 30, 2023. Thus, like the spreadsheet DOR posts on its public procurement website, this data appears to cut off after August 30, 2023. Ms. Fila still works at the St. Charles office and she processed MV transactions under User ID DF9401 after August 30. DOR’s data is wrong and incomplete.

We also requested that DOR provide us documents reflecting the number of DL transactions Ms. Fila processed between November 22, 2013 and November, 2023. Attached as Documents Provided (13) is a PDF purporting to show the number of DL transactions Ms. Fila processed under User ID DF9401 between those dates. It suggests she processed only 408 such

¹ Confusingly, Documents Provided (9) lists Ms. Fila’s start date at the St. Charles office as September 4, 2019. But Documents Provided (PI Redacted) (3) lists transactions she processed under the associated User ID as far back as January 4, 2018.

transactions. Because the DL information we received from DOR contains virtually no details, however, it is impossible for us to determine on what dates the listed transactions were processed. We are confident, however, that the DL data is also wrong.

First, as explained in the protest, DOR’s publicly available spreadsheet (which cuts off at August 30, 2023) reflects that Ms. Fila processed 1,092 DL transactions from FY13 to FY23. It is impossible to reconcile those numbers with those listed in the documents received in response to our sunshine request.² Again, it is apparent that DOR’s numbers are wrong.

Second, we assume—based on the MV data provided—that the DL data DOR used for “verification” purposes similarly cut off at August 30, 2023. But, as explained in the protest, DOR should have considered all transactions Ms. Fila processed up until November 22, 2023. Ms. Fila processed a considerable number of DL transactions between August 30 and November 22, 2023. ACM has reviewed its records to determine the number of DL transactions she processed during that time frame. While that work is ongoing, thus far we have identified the following DL transactions she processed under User ID DF9401 (organized by date):

Date	DL Transactions Processed
9.28.2023	8
9.29.2023	2
10.2.2023	33
10.3.2023	38
10.4.2023	19
10.5.2023	5
10.10.2023	20
10.11.2023	25
10.13.2023	16
10.16.2023	47
10.24.2023	12
11.21.2023	19
11.22.2023	32

In total, this is 276 additional DL transactions. Based on the data DOR has provided to date, it appears likely that DOR did not consider these transactions when “verifying” Ms. Fila’s experience.

In short, it is apparent that DOR’s transaction data is not reliable. The “verified” numbers in the Evaluation Summary do not match the public data on DOR’s website. Neither of those numbers match the numbers we received in response to our sunshine request. As explained

² The fact that the public data includes *fiscal year* 2013 does not explain the discrepancy. In 2012 and 2013, Ms. Fila was a minor. Per ACM’s internal policies, she would have processed few, if any, DL transactions during 2012 and 2013.

above, the latter numbers appear to omit transactions Ms. Fila processed prior to December 2017 and to also omit transactions she processed after August 2023. There is no way ACM, or any other vendor who has participated in recent procurements, can be sure that DOR has accurately verified transaction history or properly scored bids.

We also suspect it is likely that DOR's data significantly under reports the number of MV transactions processed for other reasons. MV transactions would include transactions in which license office staff process lien data received from auto dealerships. Due to the way DOR's system is set up, there is no separate entry for lien transactions, so they are entered into the system as a "miscellaneous transaction."

It is common for dealerships to send a substantial number of liens that need to be processed as once. But—again, due to the way DOR's system is set up—all liens an employee processes at a given time are lumped together under a single miscellaneous transaction number. Thus, even if an employee processes 100 lien transactions, DOR's system will assign a single transaction number to the entire submission.

This necessarily results in a massive under-reporting of the number of transactions processed. Each lien has to be considered and processed individually and should be counted as a separate "transaction," given the work involved. But since DOR's system simply assigns a single transaction number to all liens processed at the same time, Ms. Fila and other proposed CLOMs would not receive credit for processing hundreds, if not thousands, of separate liens.

As the foregoing discussion and data illustrate, there are very significant problems with the way DOR is currently assessing and scoring transaction processing. DOR's data is inaccurate and it is impossible to have any confidence in DOR's "verification" and scoring. The problem is made worse by the fact that DOR does not make this data public as part of the procurement or award process. We are confident that a court would conclude this scoring methodology is arbitrary and capricious.

DOR should rescind the award of the contract for the St. Charles license office. It should then revisit its RFP and redesign the scoring of the transaction history section in a way that eliminates the inherent problems caused by DOR's inaccurate data. The redesigned scoring system should clearly inform vendors how transaction processing data is recorded and considered, what time frame is going to be considered, and should leave no uncertainty as to whether DOR correctly determined the number of transactions processed.

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Best regards,

Stinson LLP

A handwritten signature in blue ink, appearing to read "Alex Barrett", with a long horizontal flourish extending to the right.

Alexander Barrett