

Division of Motor Vehicle and Driver License
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MISSOURI DEPARTMENT OF
REVENUE
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March 17, 2023

Vendor: BCFO Titleworks, Inc.
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(417) 862-3838

Point of Contact: Joe Daues
417-862-3838

Attorney: Lowell D. Pearson
235 East High Street
Jefferson City, Missouri 65101
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Re: Joplin License Office, Protest of Award for RFPSDOR220036

Dear Mr. Pearson:

The Department of Revenue ("Department") received your protest letter dated March 3, 2023, on behalf of BCFO Titleworks, Inc., challenging the above-referenced award to CGB Holdings, LLC. The Department has reviewed your protest pursuant to the authority granted by the Special Delegation of Authority ("SDA537"), executed with the Office of Administration, Division of Purchasing (the "Division"), on December 1, 2021, as well as 1 CSR 40-1.050(12), and considered the information and arguments presented therein. After having done so, the Department denies BCFO Titleworks, Inc.'s protest. Pursuant to SDA537 and 1 CSR 40-1.050(12), the Department will take no further action.

Findings of Fact

The following findings of fact are the basis for this response to BCFO's protest:

1. On December 8, 2022, in accordance with SDA537, the Department of Revenue ("Department") issued RFPSDOR220036 (the "JLO RFP"), a request for proposal ("RFP") to provide license office services in and around Joplin, Missouri;
2. On December 21, 2022, the JLO RFP closed;
3. Among others, BCFO and CGB Holdings, LLC submitted proposals for the JLO RFP;
4. In BCFO's proposal, Breanna Gonzales was proposed as BCFO's Contract License Office Manager. In evaluating Ms. Gonzales' experience with Inventory Control, BCFO was not

given credit for Ms. Gonzales' service as a Key Holder, a management position, between October 27, 2017 and May 24, 2018. BCFO was awarded 151.75 total points for their submitted proposal. With this additional experience, BFCO should have been awarded an additional four (4) points for a total score of 155.75.

5. On February 16, 2023, after evaluation, the JLO RFP was awarded to CGB Holdings, LLC with a total score of 161.50 points;

6. The current operator of the Joplin License Office ("JLO") is BCFO. BCFO has operated the JLO under RFPB3Z14285 from June 13, 2014, to present.

7. On March 3, 2023, BCFO, through counsel Lowell Pearson of Husch Blackwell LLP, filed a timely protest alleging the following:

- Point I: Favoritism.
- Point II: Improper Evaluation of the BCFO's Inventory Control Experience in Exhibit A, Section B-6B, paragraph 3.
- Point III: General qualms with the history of the RFP process.

Analysis

Point I: Favoritism.

BCFO first alleges "favoritism" in the RFP process claiming that the Department "initially attempted to prevent BCFO from even bidding" and "that someone was putting a thumb on the scale." The objection was that on a previous RFP, BCFO discovered there was no option to correctly input their business entity type and ownership structure, and alleged this was done intentionally to prevent BCFO from being able to submit a proposal. BCFO admits that "the RFP was revised" and the concern corrected. BCFO provides no evidence or even a reasonable factual or legal theory to support that an alleged error in a prior RFP was indicative of favoritism.

The contents of a withdrawn RFP have no effect on the evaluation of the JLO RFP or the awarding of a contract under the JLO RFP. Therefore, BFCO's first point on protest is denied.

Point II: Improper Evaluation of the BCFO's Inventory Control Experience in Exhibit A, Section B-6B, paragraph 3.

BCFO next alleges Breanna Gonzales's management experience in regards to "Section B6B.3 – Contract License Office Manager Experience – Inventory Control" was improperly "not verified", resulting in BCFO receiving zero (0) points for this section, instead of four (4) points.

In its proposal, BCFO claimed that the "Contract License Office Manager . . . has worked directly in a license office in a management role responsible for stocking, monitoring, and ordering inventory for the license office for at least five (5) out of the previous ten (10) years." Upon initial verification, Department records indicated Breanna Gonzalez was an "Office Manager" at the Joplin License Office between August 28, 2019, through December 21, 2022, an

Lowell D. Pearson

March 17, 2023

Page 3

“Assistant Manager” between May 24, 2018 through August 28, 2019, and a “Clerk” between March 7, 2016 through May 24, 2018. Only the positions of Manager and Assistant Manager would classify as “management roles”, therefore Breanna Gonzales was credited with only four (4) years, six (6) months, and twenty-nine (29) days of experience in a management role out of the previous ten (10) years – short of the five (5) year threshold.

Upon receipt of this protest and further review of Department records, a “Form 5253 – License Office Operation Change” submitted by BCFO on October 27, 2017, was discovered, indicating Ms. Gonzalez (then Breanna Hartley) had been promoted to the supervisory role of “Key Holder” effective immediately. With the additional time as Key Holder, a management role, Breanna Gonzalez met the five (5) year threshold as claimed by BCFO in its proposal. BCFO was therefore deprived of four points (4) points for this section.

This would have changed BCFO’s final score on the JLO RFP from 151.75 to 155.75, which is still short of CGB Holdings, LLC’s winning proposal, which scored 161.50. Therefore, BCFO’s protest is denied.

Point III: General qualms with the RFP process.

BCFO raises objections to the history of the RFP process, generally, including four sites currently run by BCFO. As part of this point, BCFO alleges there are “anecdotal references” and that it has “fears” that someone within the Missouri Association of License Offices (“MALO”) “had influenced the RFP.” Specifically, BCFO alleges that MALO’s treasurer, Crystal Webster, owner of CGB Holdings, LLC, “inserted language into the RFP that favored CGB Holdings and worked against BCFO Titleworks Inc.” The complaints regarding prior requests for proposals are unrelated to the current JLO RFP. Under § 32.042, RSMo, the contract is to be “let to the lowest and best offeror as determined by the evaluation criteria established in the request for proposal.” In addition, Paragraph 4.2.8.c. of the JLO RFP states:

The vendor’s proposal, as submitted in response to the subject RFP, will be considered separate and distinct from any other proposal the vendor may have submitted in response to another RFP, including proposals of an existing license office contract or in response to another RFP currently in evaluation. Therefore, the vendor should not rely on or refer to information included in a proposal submitted by the vendor in response to another RFP.

Under 1 CSR 40-1.050(10)(G), “In addition to cost, subjective and any other criteria deemed in the best interest of the state may be utilized in the evaluation of bids/proposals provided that the criteria are published in the solicitation document.” Similarly, 1 CSR 40-1.050(16) provides that “[f]or solicitations using weighted criteria evaluations, the evaluation criteria and point assessment assigned to each criterion, as well as the award process, will be specified in the solicitation documents.”

As for the allegations against MALO and Crystal Webster, the Department denies that there was any such improper influence. In addition, BCFO does not identify the specific

Lowell D. Pearson

March 17, 2023

Page 4

provisions that they believe were altered which prejudiced BCFO. As such, the Department cannot evaluate the vague allegations that unidentified changes or insertions worked against BCFO.

Given the requirements that all information be included in the solicitation documents, BCFO's complaints regarding the history of the proposal process for the JLO are irrelevant to the evaluation of the current JLO RFP. In addition, the allegations against MALO are not supported with a detailed statement or supported by exhibits, evidence, or documents to substantiate the claim as required by 1 CSR 40-1.050(12). Therefore, Point III of the protest is denied.

Conclusion

For the reasons set forth above, the Department finds that BCFO Titleworks, Inc.'s protest fails to establish a basis for cancellation of the Division's award of RFPSDOR220036 to CGB Holdings, LLC. Therefore, BCFO Titleworks, Inc.'s protest is denied. Pursuant to 1 CSR 40-1.050(12), the Department will take no further action on BCFO's protest.

Sincerely,



Kenneth Struempfler

Director

Motor Vehicle and Driver License Division