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Comments to 4.24.2013 Special Agenda No. 38-CF 12-0692 Los Angeles Convention Center RFP

1 message

Joyce Dillard <dillardjoyce@yahoo.com>

Wed, Apr 24, 2013 at 10:21 AM

Reply-To: Joyce Dillard <dillardjoyce@yahoo.com>

To: Alan Alietti <alan.alietti@lacity.org>, Patrice Lattimore <patrice.lattimore@lacity.org>, The Honorable Eric Garcetti <Councilmember.Garcetti@lacity.org>, "The Honorable Dennis P. Zine" <councilmember.zine@lacity.org>, The Honorable Tom LaBonge <councilmember.labonge@lacity.org>, "The Honorable Bernard C. Parks" <councilmember.parks@lacity.org>, The Honorable Ed Reyes <councilmember.reyes@lacity.org>, The Honorable Richard Alarcón <councilmember.alarcon@lacity.org>, The Honorable Jan Perry <councilmember.perry@lacity.org>, "The Honorable Herb J. Wesson Jr." <councilmember.wesson@lacity.org>, The Honorable Bill Rosendahl <councilmember.rosendahl@lacity.org>, The Honorable Jose Huizar <councilmember.huizar@lacity.org>, The Honorable Paul Koretz <Paul.Koretz@lacity.org>, The Honorable Carmen Trutanich <CTrutanich@lacity.org>, The Honorable Paul Krekorian <Councilmember.Krekorian@lacity.org>, The Honorable Mitchell Englander <councilmember.english@lacity.org>, The Honorable Joe Buscaino <councilmember.buscaino@lacity.org>

Deny this Recommendation of this Report.

Your December 12, 2012 Motion stated:

INSTRUCT the CAO to require financial transparency by all bidders with respect to the RFP consistent with City policy;

You are clearly making exceptions to the contracting process (from approximately 1984) to favor the applicant ANSCHULTZ ENTERTAINMENT GROUP and its affiliate AEG FACILITIES as the CITY OF LOS ANGELES terms were clear in the REQUEST FOR PROPOSAL.

AEG FACILITIES LLC was incorporated in the State of Delaware on September 18, 2003 and in the State of California on November 24, 2008.

AEG FACILITIES could not fulfill the requirements of the REQUEST FOR PROPOSAL in a timely manner.

Your interpretation of the Charter and this action as an "*advantage of the City*" is not justified. You are manipulating the process to protect the financial information of this bidder company because you have entered into MEMORANDUM OF UNDERSTANDING with ANSCHULTZ ENTERTAINMENT GROUP for an Event Center, New Hall, New Parking Structures and Additional Terms (Staples Center Lease Extension; Event Center Admissions Fee, Signage, Construction Contracting, Ground Lease General Provisions, Non-Competition, Non-Disruption, L.A. Live Event Deck, Public Benefits).

You have a Conflict of Interest.

You have never released any FINANCIAL INFORMATION of ANSCHUTZ ENTERTAINMENT GROUP or its AFFILIATES, yet have made financial decisions on property owned by the CITY OF LOS ANGELES for the benefit of its citizens voted on in Primary Nominating Election held April 3, 1951 as Charter Amendment 16.

You are participatory in hiding any information from the PUBLIC in order to determine if the PUBLIC'S INTERESTS are properly handled.

CITIZENS should be able to determine if this asset of the CITY OF LOS ANGELES is being operated, as voted on, by a CALIFORNIA INCORPORATED NON-PROFIT CORPORATION with LIABILITY RETIRED and SURPLUS MONEY transferred to the RESERVE FUND.

The following are excerpts from significant documents relating to this Report including the LOS ANGELES CITY CHARTER and the terms of submission for the REQUEST FOR PROPOSAL and clarification in ADDENDUM #1.

We have underlined significant sentences:

**LOS ANGELES CITY CHARTER
VOLUME 1 GOVERNANCE
ARTICLE III FINANCE, BUDGET AND CONTRACTS
CONTRACTS**

Sec. 371. Competitive Bidding ; Competitive Sealed Proposals.

(c) Right to Reject. The City shall reserve the right to reject any and all bids or proposals and to waive any informality in the bid or proposal when to do so would be to the advantage of the City. The City may also reject the bid or proposal of any bidder or proposer who has previously failed to timely and satisfactorily perform any contract with the City.

Sec. 372. Competitive Proposals Preferred.

Except as otherwise provided by ordinance, in all cases where bids are not required by the Charter, competitive proposals or bids shall be obtained as far as reasonably practicable and compatible with the City's interests. In all cases, a public record of these proposals and agreements shall be kept. The right to reject any and all proposals or bids shall be reserved in all cases.

**REQUEST FOR PROPOSALS
MANAGEMENT AND OPERATION OF THE LOS ANGELES CONVENTION CENTER
FOR THE CITY OF LOS ANGELES**

VI. PROPOSAL REQUIREMENTS

This section will explain the procedure that will be followed by all proposers. Proposers are cautioned to carefully read and follow the procedures required by this section. Material

deviations from these requirements may cause rejection of proposals.

All proposers must submit:

One (1) original proposal and a cover letter, each signed in ink, six (6) unbound hard copies and one (1) electronic copy in the form of a compact disk or flash drive. Proposal package must be hand-or-courier delivered in a sealed package by 5:00 PM PST on February 8, 2013, to the following address:

City Administrative Officer
City of Los Angeles
200 N. Main Street,
City Hall East, Room 1500
Los Angeles, CA 90012
Attention: Natalie R. Brill, Chief of Debt Management

In addition, all proposers must supply one additional unbound copy of their proposal with any redacted sections "blacked out" (see Section VI E 9, Confidential Information), for a total of seven (7) unbound copies. The "blacked out" copy will be used to respond to a request under the California Public Records Act pursuant to applicable provisions.

The persons who hand-deliver proposals will be issued a "Notice of Receipt of Proposal." The original copy of proposals submitted will be marked with a time and date stamp. Timely submission of proposals is the sole responsibility of the proposer. The City reserves the right to determine the timeliness of all submissions.

The copies must be numbered on the upper right hand side of the cover to indicate "Copy No." Each copy must include all forms, attachments, appendices, exhibits and cover letter. All pages must be firmly secured. Pages should be double-sided. Neon or fluorescent paper should not be used in any written documents submitted. Proposals should be typed and must be unbound and can be in a three-ring binder, ~~without~~ card stock or colored paper. Submitted materials will not be returned to the sender after the proposals have been opened.

D. Narratives

Responses to this RFP must be made in accordance with the requirements set forth herein. Failure to adhere to these requirements may be cause for rejection of the proposal as non-responsive. In completing the narratives and exhibits, including the budget, clearly identify the services to be provided, the service provider, and the demonstrated ability of subcontractors, if any.

This outline is not all-inclusive and professional management companies can add information as deemed appropriate. To ensure a uniform review process and to obtain the maximum degree of comparability, the proposals must be organized in the following manner:

FINANCIAL SUSTAINABILITY

Provide the following financial documents. Items one (1) through six (6) below must be audited financial statements in US GAAP.

1. Balance Sheets for prior three years.
2. Income Statements for the prior three years.
3. Statements of Cash Flows for the prior three years.
4. Statements of changes in stockholder's equity for the prior three years.
5. Notes to Financial Statements.
6. Corporate/partnership federal income tax returns for the last completed fiscal year.
7. Credit report (e.g., Dun & Bradstreet report).
8. Credit history letter(s) from financial institution(s).
9. Most recent quarterly financial statement.

In any event, should the City require additional evidence of financial stability other than what is submitted, the proposers will be expected to provide such acceptable evidence in order for their proposer to be considered responsive to this RFP.

E. General Proposal Conditions

9. Confidential Information

Proposals made in response to this RFP may contain technical, financial, or other data whose public disclosure could cause substantial injury to the proposer's competitive position or constitute a trade secret. To protect such data from disclosure to the extent permitted by law, the proposer should specifically identify the pages of the proposal that contain confidential information by properly marking the applicable pages and inserting the following notice in the front of the proposal:

"NOTICE"

"The data on the pages of this proposal identified by an asterisk (*) or marked along the margin with a vertical line, contain information which are trade secrets and/or whose disclosure would cause substantial injury to the proposer's competitive position. The proposer requests that such data be used only for the evaluation of its proposal, but understands that disclosure will be allowed to the extent that the City determines that the data or information is not confidential and must be released pursuant to federal, state, or local law."

In proposals containing proprietary information, proprietary paragraphs and/or data should be clearly marked as noted above. The proposer must include one additional unbound copy of the proposal with the confidential material totally blacked out or removed from the text so that one copy is available as public material. In accordance with the California Public Records Act, this information may, upon request, be released to the public including the blacked out or removed material if determined by the City that disclosure pursuant to the law is required.

The City assumes no responsibility for disclosure or use of unmarked data for any purposes. In the event properly marked data are requested, the proposer will be advised of the request and may expeditiously submit to the City a detailed statement indicating the reasons it has for believing that the information is exempt from disclosure under federal, state, and local law. The City will exercise care in applying this confidentiality standard, but will not be held liable for any damage or injury that may result from any disclosure that may occur. The proposer agrees to assume and pay for all costs incurred by the City, including attorneys' fees awarded by the court, if proposer requests the City to resist disclosure of material provided to the City by the proposer, provided the City determines the said materials are exempt under federal, state, and local law. Further should a proposer request that portions of the proposal remain confidential and not be disclosed, the proposer must conform assurance to indemnify, defend and hold harmless the City by including the following statement in the cover letter:

"The proposer agrees to indemnify the City and its officers, employees and agents and hold them harmless from any claim or liability and will defend any action brought against the City for its refusal to disclose copyrighted material, trade secrets, or other proprietary information to any person making a request therefore."

Failure to include such a statement shall constitute a waiver of a proposer's right to exemption from disclosure.

Note that wholesale use of headers/footers bearing designations such as "confidential", "proprietary", or "trade secret" on all or nearly all of a proposal is not acceptable, and may be deemed by the City as a waiver of any exemption claim. The identification of exempt information must be more specific.

**QUESTIONS & ANSWERS REGARDING THE REQUEST FOR PROPOSALS FOR
MANAGEMENT AND OPERATION OF THE LOS ANGELES CONVENTION CENTER
ADDENDUM 1
January 17, 2013**

37. Regarding the documents requested for firms "financial stability" (page 20), please confirm that respondents to this RFP be responsible for providing financial statements for the entity that will be executing an agreement with the City, and not those of a parent or affiliate

The City is requesting all relevant financial information for entities executing the agreement as well as parent and affiliates of that entity.

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