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December 12, 2016

By Fax

The Pima County Board of Supervisors  
and  
Robin Brigode  
Clerk of the Board  
Pima County Board of Supervisors  
130 W. Congress, 5<sup>th</sup> Floor  
Tucson, AZ 85701

Re: Response to Appeal of the Pima County Procurement Director's Decision Regarding Solicitation No. 228614

Dear Supervisors and Ms. Brigode,

Following the selection of my firm as the "Most Qualified Respondent," I find myself in the unexpected position of defending my firm's hourly rate because it is *lower* than Mr. Corey's hourly rate. In a competitive process where cost is the most heavily weighted of the evaluation criteria, my lower hourly rate is not grounds for a Protest.

The process for Competitive Sealed Proposals under Sec. 11.12.020 of the Procurement Code and as set forth in the Solicitation was unambiguous and used the same evaluation criteria as in 2006 and 2011 when Mr. Corey was the successful respondent. Therefore, I respectfully request that the Board of Supervisors accept the decision of the Procurement Director.

In the event the Board of Supervisors takes testimony or comment, I request an opportunity to be heard. Meanwhile, in response to some of Mr. Corey's statements, let me briefly address my hourly rate, experience and references, and the evaluation criteria.

**1. My Hourly Rate**

My hourly rate is \$185. Mr. Corey's hourly rate is \$246.

Cost was the most important of all the evaluation criteria with 40 out of a maximum 100 points. Despite the clear criteria in this competitive process, Mr. Corey cites my lower hourly rate as "the most significant factor" in his Protest.

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My rate is identical to the hourly rate in my 2014 contract with Pima County under which I defended the Election Integrity Commission in response to an open meeting law complaint. (Contract No. CT-FN-15\*66 for legal representation of Pima County Advisory Boards.) I did not use this representation as a reference as I was able to provide references more timely and consistent with Merit Systems legal representation as set forth in the Solicitation.

In addition, my rate to Pima County is consistent with my discounted hourly rates to other government clients, including the Pinal County Merit Commission and Pinal County Law Enforcement Council. My current rate to Pinal County is \$175. My current hourly rate for fire district clients ranges from \$165 to \$195. After receiving a copy of Mr. Corey's Protest, I contacted another attorney in private practice who represents a significant number of government clients. He confirmed his hourly rate for similar clients ranges from \$175 to \$200.

My rate is reasonable and responsive to the Solicitation.

**2. Experience & References**

Both Mr. Corey and I have extensive experience relevant to the Solicitation. Mr. Corey does point out his additional years of experience including his tenure with the Pima County Merit System Commission/Law Enforcement Merit Systems Council (the "Merit Commission"). The Evaluation Score Sheets included with Mr. Corey's Appeal confirm that the evaluators took our relative experience into consideration.

Likewise, both Mr. Corey and I provided public sector references as requested in Attachment 5 of the Solicitation. The Solicitation directs the offerors to provide, "... three (3) verifiable PUBLIC SECTOR REFERENCES, all of which are able to comment on your relative experience." In selecting my references, I chose three individuals from the public sector who personally observed my work regarding employee appeals. In selecting his references, Mr. Corey included the Chairperson of the Merit Commission. The Evaluation Score Sheets included with Mr. Corey's Appeal confirm that the evaluators took our references into consideration.

My experience and references were reasonable and responsive to the Solicitation.

**3. Evaluation Criteria**

Despite the consistency of the evaluation criteria over the years, Mr. Corey suggests that the County "overemphasized cost" and failed to take the Merit Commission's preference into consideration.

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Mr. Corey, myself, and others participated in the Pre-Proposal Conference. At that time, neither Mr. Corey nor anyone else raised a question regarding the allocation of points or preference of the Merit Commission.

Pursuant to Sec. 11.20.010(B), Protests regarding a solicitation that are apparent before the bid opening or before the time for receipt of proposals "shall be filed *before* bid opening or before the time for receipt of proposals." (Emphasis added.) Mr. Corey did not submit his Protest until after the Notice of Recommendation For Award. Therefore any complaint regarding the Solicitation is improper.

**4. Conclusion**

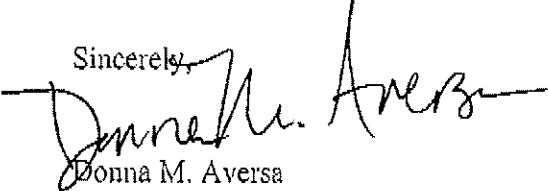
The evaluation and award is governed by Sec. 11.12.020(I)(3) which states:

*The contract shall be awarded to the responsible and responsive offeror whose proposal is determined to be the most advantageous to the county taking into consideration the evaluation criteria set forth in the request for proposals.* (Emphasis added.)

For the foregoing reasons, I respectfully request the Board of Supervisors accept the decision of the Procurement Director denying the Protest and upholding the selection of my firm.

Thank you for your time and consideration. I am available to answer any questions you may have.

Sincerely,



Donna M. Aversa

cc: Mary Jo Furphy, Director  
Pima County Procurement Department

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