



AGENDA MATERIAL

DATE 8/6/19 ITEM NO. RA 33

Copy for

Board

CM

8/2/19

MEMORANDUM

Date: August 1, 2019
To: Chuck Huckelberry, County Administrator
Thru: Tom Burke, Deputy County Administrator
From: Mary Jo Furphy, Procurement Director
Re: Appeal by McGann & Associates

Tom Burke
Mary Jo Furphy

Procurement stands by our finding that the protest was filed untimely and that the denial was the correct action. The Notice was provided on June 20, 2019. Per Pima County Code 11.20.010, the protest period deadline is five full business days, which expired June 27, 2019. The protest was received on July 17, 2019, almost three calendar weeks after the deadline. The award was effective July 10, 2019. Mr. McGann contacted procurement by email on July 10, 2019 asking for debriefing materials, which were provided on July 15, 2019.

In my protest denial letter, I did not contest Mr. McGann assertion that errors were made in the selection process because, Pima County Code 11.20.010 H. states that "A dismissal based on an untimely protest is not appealable." It was our error to include those rights in the letter. Even so, I did review the committee's documentation and did not find any errors in the process by the evaluation committee. The committee scores appear appropriate and consistent, while earning McGann & Associates fourth place. The proposal's shortcoming was criteria 2b. since McGann & Associates received zero points by all evaluators due to not answering the question. If the question was answered and if the response received full points, McGann & Associates would have been ranked third and have been awarded a contract. It was their failure to provide a proposal that addressed all of the criteria I order to score high enough to qualify.

While it is true that the solicitation for qualifications had a stated intent to select "up to four" firms, the intent is to express the maximum not the minimum or exact amount. We are not bound to name exactly four. The fact that the fourth and fifth place firms' scores were essentially tied at 79.19 and 79.07, while there was a two plus point spread between the third and fourth place drew an obvious line. The committee made a consensus recommendation based on the resulting scores that three firms would meet the County's needs. I approved pursuant to Board Policy D29.1.

It is very clear that the protest was filed untimely and that there were no errors or inconsistencies in the scoring process. This appeal should be denied and my decision upheld.

AUG 02 19 01 06 POC/KCF/HD

AFB