



**Ed, Hunzeker, County  
Administrator  
1112 Manatee Ave. West, Ste. 803  
Bradenton, FL 34205  
Phone: (941) 748-4501  
www.mymanatee.org**

October 20, 2017

Lapin Septic Tank Service, Inc.  
Dba Lapin Services  
3031 W. 40<sup>th</sup> St.  
Orlando, FL 32839

Re: Protest regarding RFP No. 18-R067464MS.

Mr. Lapin,

The County is in receipt of a protest from your firm in regards to RFP No. 18-R067464MS, Odor and Corrosion Control Services. After completing a thorough review of the information provided in your protest and information from staff, your request for the County to write a new RFP to include the language of the previous RFP No. 17-0177GD is denied.

The allegations raised in your protest, though characterized as grounds for a protest under Section 2-26-61 of the County's Purchasing Code, are merely criticisms of the County's business practices and do not involve a "violation of the requirements of the [Purchasing Code] or any applicable provision of law by the officers, agents or employees of the County. Nor do they result in an unfair competitive advantage to any respondent to the RFP within the meaning of any applicable section of the Purchasing Code or law. Nevertheless, in the interest of transparency, I provide a complete and full response to each of the allegations stated in your protest.

As stated in your protest, this office responded to a protest from your firm for RFP No. 17-0177GD, for corrosion and odor control services on May 24, 2017, with the results of an administrative review sustaining two of the allegations by Lapin regarding the proposal submitted by Evoqua: (1) failure to disclose pending litigation and (2) failure to provide independently prepared financial statements.

Based on a study by the Engineer of Record on this project, developing a revised scope of service with a different approach to services would be in the County's best interest.

Per County Ordinances, Section 2-26-42, Cancellation of Solicitations, Manatee County is authorized to cancel bids, proposals or offers to achieve the County's best interest. The County exercised its legal authority as stated in the code and appropriately posted notice on June 5, 2017 stating the reasoning to support cancellation of RFP 17-0177GD.

In response to your protest regarding RFP No. 18-R067464MS:

**Sunshine Law Rights:** The arguments regarding the public records request submitted in June of 2017 is untimely per section 2-26-61(b)(1) of the County's Purchasing Code. Even if timely raised, this argument would still be without merit. Per Florida Statute § 119.07(1)(b)(3), a copy of Lapin's proposal for RFP No. 17-0177GD was not provided in response to the June 2017 public records request.

**Environmental and Energy Preservation:** The County did not arbitrarily ignore the Environmental and Energy Preservation standards stated in Section 2-26-8 of the Code of Ordinances. The technical specifications were developed from recommendations provided by the Engineer of Record, in a study report submitted in April of 2017 and an addendum to the report completed in September of 2017. In summary, the recommendations were use of magnesium hydroxide for pH adjustment in the larger lift stations and calcium nitrate at smaller upstream lift stations as part of a system-wide treatment strategy that will benefit both collections and treatment infrastructure. Magnesium hydroxide was recommended for the larger lift stations associated with long manifolded force mains due to its low solubility in water, its self-buffering ability, and its non-hazardous characteristics (pH between 10 -11). Calcium nitrate was recommended for the upstream portions of the collection system at the smaller lift stations due to its successful and extensive use and current history of effectiveness and for its overall cost effectiveness.

**Exclusion of Specific Contractors:** Standard practice in the procurement process is the determination of responsive and responsible bidders/proposers. Under new leadership within the Procurement Department, and in keeping with best practices, the County now routinely includes minimum qualification requirements which provide an objective approach to determining those firms that are responsible and have the minimal expertise, knowledge, abilities, licensures, certifications and/or other job-related requirements to perform the work. Furthermore, the requirement of financial statements is generally only required for those services in which monetary collections or exchange occurs, which is not the case for the work specified in RFP No. 18-R067464MS. Therefore, the determination was made that submission of financial statements was not required in order to submit a response to this solicitation.

Further, RFP No. 18-R067464MS provided for a Question and Clarification Period from October 4, 2017 through October 13, 2017 in which potential proposers, after examining the RFP documents could submit inquiries, suggestions, or requests concerning interpretation, clarification or additional information pertaining to the RFP, including inquiry regarding any of the terms, conditions, or requirements in the solicitation.

**Biased Study Conducted:** The recommendations provided by the County's Engineer of Record for the study are based on the extensive knowledge of, and experience with, corrosion treatment technologies. The report provided opinion on other treatment technologies beyond those recommended and therefore was not prejudiced for, or against any specific products or processes.

**Financial Responsibility:** The County's guiding principle is always to obtain the best value for its citizens in the procurement of goods and services. The RFP No. 18-R067464MS has been developed to obtain the best value based upon multiple criteria of which price is included. Based on the study,

the recommended changes in process and chemicals that are included in this RFP will enhance effectiveness and cost efficiencies.

**Conclusion:** Based upon these findings, your protest is disallowed and the County will proceed with receiving and evaluation proposals in response to RFP No. 18-R067464MS.

As a reminder, the County has a limitation on lobbying (County Ordinance, Section 2-26-31) that remains in effect until final execution of any agreement resulting from this solicitation. Any further correspondence regarding this solicitation should be submitted to the County's Procurement Official, Theresa Webb.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Hunzeker', with a long horizontal stroke extending to the right.

Ed Hunzeker, County Administrator

Cc: Procurement