



JOSEPH M. GOLDSTEIN
 PARTNER, BOARD CERTIFIED IN BUSINESS
 LITIGATION
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 201 East Las Olas Blvd.
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 Fort Lauderdale, FL 33301
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January 21, 2025

VIA E-MAIL

Glen Marcos, CPPO, CPPB, FCPM, FCPA, GMarcos@fortlauderdale.gov
 Chief Procurement Officer
 City of Fort Lauderdale

Re: Formal Bid Protest of RFP No. 332, Automated School Zone Speed Detection Camera System.

Dear Mr. Marcos:

Shutts & Bowen LLP represents Blue Line Solutions LLC (“Blue Line Solutions”), the first-ranked vendor of RFP No. 332, Automated School Zone Speed Detection Camera System (“RFP”). Blue Line Solutions submits this timely formal bid protest of the City of Fort Lauderdale’s (“City”) January 16, 2025, Award Recommendation/Intent to Award (“Award Recommendation”), attached hereto as **Exhibit A**. This protest is being filed within five (5) days after a notice of intent to award was posted on the City of Fort Lauderdale's world wide web site. Accompanied with the protest is an application fee of \$ 5,000. As grounds for its protest, Blue Line Solutions states as follows:

I. EXECUTIVE SUMMARY

The following facts are undisputed:

- **Blue Line is the highest ranked vendor.**
- **The SOC2 submission was not an evaluated item, and the SOC2 submission was to be submitted after evaluations as a condition to commence negotiations.**

Change To:

Negotiations will occur with the highest ranked, responsive, and responsible firm contingent upon receipt of ~~The Contractor should provide~~ a current SSAE, SOC 2, Type I report ~~with their proposal~~ to be provided within 60 days after proposal due date. Awarded Contractor will be required to provide an SSAE 18, SOC 2, Type II report annually during the term of his contract. If the Contractor cannot provide the SSAE 18, SOC2, Type I report at the required time of proposal submittal, a current SOC 3 report will be accepted.

- **Blue Line received its SOC2, effective as of September 13, 2024, on October 16, 2024**



Opinion

In our opinion, in all material respects,

- a. The description presents Blue Line Solutions, LLC's New Guard Platform (system) that was designed and implemented as of September 13, 2024, in accordance with the description criteria.
- b. The controls stated in the description were suitably designed as of September 13, 2024, to provide reasonable assurance that Blue Line Solutions, LLC's service commitments and system requirements would be achieved based on the applicable trust services criteria if its controls operated effectively as of that date.

January 21, 2025

Page 3

- **The City of Fort Lauderdale requested Blue Line submit its submit its SOC2 by November 15, 2024, and Blue Line complied.**

From: Kirk McDonald <KMcDonald@fortlauderdale.gov>
Sent: Wednesday, November 13, 2024 6:17:36 PM
To: Jason Friedberg <jfriedberg@bluelinesolutions.org>
Cc: Jonmichael Mullins <jmullins@bluelinesolutions.org>
Subject: RE: Evaluation Committee Meeting Agenda for Event 332: Automated School Zone Speed Detection Camera System: Reference check

Dear Jason,

The Evaluation Committee (EC) shortlist meeting was held today, November 13, 2024, for RFP No. 332, Automated School Zone Speed Detection Camera System. In the meeting, the EC determined that Blue Line Solutions, LLC is the highest ranked, responsive, and responsible firm. As a result of the EC's decision, the Procurement Services Division must move forward with ensuring compliance with the RFP requirement pursuant to Addendum No. 3 of the RFP, whereby it states:

"Negotiations will occur with the highest ranked, responsive, and responsible firm contingent upon receipt of a current SSAE, SOC 2, Type I report to be provided within 60 days after proposal due date. Awarded Contractor will be required to provide an SSAE 18, SOC, Type II report annually during the term of [t]his contract. If the Contractor cannot provide the SSAE, SOC2, Type I report at the required time, a current SOC 3 report will be accepted."

Subsequently, Competitive Negotiations is the next phase of this competitive process. Blue Line Solutions, LLC is to submit its SOC Report as required by the above-mentioned Addendum No. 3 language by no later than **Friday, November 15th, 2024, at 5:00p.m.** Feel free to contact me with any questions you may have.

Respectfully,

Kirk McDonald
Senior Procurement Specialist
City of Fort Lauderdale | Procurement Services Division
101 NE 3rd Avenue, Suite 1650 | Fort Lauderdale, FL 33301
P 954-828-5073 | F 954-828-5576 | kmcDonald@fortlauderdale.gov
Integrity – Compassion – Accountability – Respect – Excellence

From: Jonmichael Mullins <jmullins@bluelinesolutions.org>
Sent: Wednesday, November 13, 2024 5:56 PM
To: Kirk McDonald <KMcDonald@fortlauderdale.gov>; Jason Friedberg <jfriedberg@bluelinesolutions.org>
Subject: Blue Line Solutions SOC 2 Report

Good Evening. Please see the BLS SOC 2 report attached. If you have my questions, or need anything else at all, feel free to reach out.

-JM Mullins
938-207-9197

II. BACKGROUND

The City posted the RFP, incorporated by reference as **Exhibit B**, on Thursday, July 11, 2024, seeking qualified, experienced, and licensed firm(s) to provide Automated School Zone Speed Detection Camera System Equipment with both LiDAR (Light Detection and Ranging) and RADAR options to the City. Vendor proposals were due on Friday, August 23, 2024.

On Friday, August 30, 2024, the City issued Addendum No. 3 to the RFP, attached hereto as **Exhibit C**. Addendum No. 3 states in pertinent part, the following:

Negotiations will occur with the highest ranked, responsive, and responsible firm contingent upon receipt of a current SSAE, SOC 2, Type I report to be provided within **60 days** after proposal due date. Awarded Contractor will be required to provide an SSAE 18, SOC 2, Type II report annually during the term of [t]his contract. If the Contractor cannot provide the SSAE 18, SOC2, Type I report at the required time, a current SOC 3 report will be accepted.

(Emphasis added.)

The Evaluation Committee's ("EC") shortlist meeting for the RFP was held on Wednesday, November 13, 2024. At that meeting, the EC determined that Blue Line Solutions, LLC is the highest-ranked, responsive, and responsible firm.

On November 13, 2024, at 5:56 PM, Blue Line Solutions submitted its SOC Report to the City via email correspondence, attached hereto as **Exhibit D**.

On November 13, 2024, at 6:17 PM, the City's Procurement Division contacted Blue Line Solutions via email correspondence regarding the submission of its SOC Report pursuant to Addendum No. 3, setting a submission deadline for Friday, November 15, 2024. The email correspondence is attached hereto as **Exhibit E**. At the time of the City's correspondence to Blue Line Solutions, Blue Line Solutions had already timely submitted its SOC Report.

On January 16, 2025, the City posted its Award Recommendation/Intent to Award the RFP, recommending RedSpeed Florida LLC for award because "[t]he highest ranked firm, Blue Line Solutions, LLC did not meet the time deadline requirements to submit its SOC2."

As discussed further below, Blue Line Solutions timely provided its SOC2 report, and even if the submission was untimely such is a minor irregularity that should have been waived.

III. SUMMARY OF ARGUMENT

The Award Recommendation is improper, arbitrary, and capricious because the City failed to follow its Procurement Ordinance and the instructions of the RFP. This led to the inappropriate recommendation of award to second-ranked vendor RedSpeed Florida LLC when Blue Line

Solutions is the highest-ranked, responsive, and responsible vendor. Therefore, Blue Line Solutions should be the vendor recommended for award for this RFP.

IV. ARGUMENT

A. The City's Decision to Award the Second Rank Vendor is Arbitrary and Capricious.

1. *The RFP intended days to mean business days unless it specifically used calendar days. Therefore, awarding the second-ranked vendor when the first-ranked vendor timely submitted its SOC Report and is responsible and responsive is improper.*

“While a public authority has wide discretion in award of contracts for public works on competitive bids, such discretion must be exercised based upon clearly defined criteria, and may not be exercised arbitrarily or capriciously.” *City of Sweetwater v. Solo Const. Corp.*, 823 So. 2d 798, 802 (Fla. 3d DCA 2002).

On November 13, 2024, the EC, at the shortlist meeting for the RFP determined that Blue Line Solutions, LLC is the highest-ranked, responsive, and responsible firm per the terms of the solicitation. Subsequent to this determination, the City via its Procurement Division contacted Blue Line Solutions via email correspondence regarding the submission of its SOC Report pursuant to Addendum No. 3, representing that the SOC Report was due by Friday, November 15, 2024. *See Ex. E.* On this same day, Blue Line Solutions submitted its SOC Report to the City via email correspondence. *See Ex. D.*

Addendum No. 3 states in pertinent part, the following:

Negotiations will occur with the highest ranked, responsive, and responsible firm contingent upon receipt of a current SSAE, SOC 2, Type I report to be provided within **60 days** after proposal due date. Awarded Contractor will be required to provide an SSAE 18, SOC 2, Type II report annually during the term of [t]his contract. If the Contractor cannot provide the SSAE 18, SOC2, Type I report at the required time, a current SOC 3 report will be accepted.

(Emphasis added.) *See Ex. C.*

Addendum No. 3 did not specify “calendar days.” However, the solicitation specifies “calendar days” three separate times, indicating a distinction between deadlines in calendars days versus business days. The respective references to calendar days are as follows:

“Upon formal request of the City, based on the application of a Local Business Preference the Proposer **shall within ten (10) calendar days** submit the following documentation” Sec. 2.19.2 RFP, at 6. (Emphasis added.)

“Upon formal request of the City, based on the application of a Disadvantaged Business Preference the Proposer **shall** within **ten (10) calendar days** submit the following documentation” Sec. 2.20.2 RFP, at 7. (Emphasis added.)

“The delivery time **shall** be stated in **calendar days** from the date of City notification of award or notice to proceed with delivery.” Sec. 4.2. RFP, at 26. (Emphasis added.)

The absence of the phrase “calendar days” when otherwise referencing days was evident in over ten (10) different provisions throughout the solicitation. For example, in section 2.26.4, referencing insurance certificate requirements, the RFP explicitly provided the following:

“The Contractor shall provide the City with valid Certificates of Insurance (binders are unacceptable) no later than **ten (10) days** prior to the start of work contemplated in this Agreement.” Sec. 2.26.4(a), RFP, at 10.

“The Contractor shall provide to the City a Certificate of Insurance having a thirty (30) day notice of cancellation; **ten (10) days’** notice if cancellation is for nonpayment of premium.” Sec. 2.26.4(b), RFP, at 10.

“In the event the Agreement term or any surviving obligation of the Contractor following expiration or early termination of the Agreement goes beyond the expiration date of the insurance policy, the Contractor shall provide the City with an updated Certificate of Insurance no later than **ten (10) days** prior to the expiration of the insurance currently in effect. The City reserves the right to suspend the Agreement until this requirement is met.” Sec. 2.26.4(d), RFP, at 10-11.

Furthermore, the Procurement Division’s contemporaneous interpretation, as demonstrated by its email correspondence evidencing its calculation of the deadline for the SOC Report submission, also establishes that days are interpreted as business days and not calendar days. On November 13, 2024, following the evaluation meeting where the EC determined that Blue Line Solutions was the highest ranked, responsive, and responsible firm, Mr. McDonald advised Blue Line Solutions that it had until November 15 to provide its SOC Report. The deadline for the submission of the SOC Report coincides with 60 business days after the August 30, 2024, proposal due date rather than 60 calendar days after the proposal due date.¹

As detailed above, the intent of the RFP is clear by the use of “calendar days” in specific instances and not others. Additionally, it is important to highlight the use of the word “shall” preceding all uses of the phrase “calendar days.” In all three (3) references to calendar days the RFP is restrictive rather than permissive, using mandatory language to indicate the requirement for those specific

¹ Technically, due to an intervening holiday (Labor Day on September 2) and a closure date due to Hurricane Milton (on October 10), the 60th business day was actually November 19, 2024.

instances to be calculated in “calendar days.” *See Pecchia v. Wayside Ests. Home Owners Ass'n, Inc.*, 388 So. 3d 1136, 1142 (Fla. 5th DCA 2024) (“In Florida, it has long been the law that “shall” is mandatory). In other provisions of the RFP, like the three (3) examples provided above under the insurance certificate requirements, where there is no use of the phrase “calendar days” more lenient and permissive language is used, suggesting that there is no specific intent for the calculation of days for these provisions to be in calendar days. From the overall construction of the RFP document and subsequent communications from the procurement division, it is evident that “days,” in the absence of a specific identification of calendar days, is construed to mean business days.

Therefore, it is reasonably interpreted that the SOC Report was due 60 business days after the proposal due date and not calendar days. With the clear intent for the SOC Report to be due 60 business days after the proposal due date instead of 60 calendar days, the City’s decision to award the second-ranked vendor, when the first-ranked vendor is responsible and responsive is improper, arbitrary and capricious.

2. *Even if Blue Line Solutions did untimely submit its SOC Report, the Submission of SOC Report is a merely a Minor Irregularity.*

Moreover, even if Blue Line Solutions’ SOC report was submitted late, such is a minor regularity that must be waived. In issuing Addendum No. 3, the City amended the RFP to make it clear that the SOC Report was not to be used for determining responsiveness or ranking. Initially, the RFP required vendors to submit the SOC Report with its proposal. By changing the timing to 60 days after the submission of the proposal, the City contemplated that such would play no role in determining responsiveness, responsibility (at least prior to negotiations or award), and ranking. Instead, the RFP made submission of such merely a condition to begin negotiations if you were previously found responsive, responsible, and the highest ranked by the EC, which Blue Line Solutions was on November 13, 2024, the same day it submitted its SOC Report.

Not only did Blue Line Solutions timely submit its SOC Report after being found responsive, responsible, and the highest ranked, but it had the SOC Report, effective as of September 13, 2024, dated from its auditors on October 16, 2024. There was no need for Blue Line Solutions to submit its SOC Report until the EC found it responsive, responsible, and highest ranked, which is exactly what Blue Line Solutions did on the same day the EC made its determination that Blue Line Solutions, LLC is the highest-ranked, responsive, and responsible firm.

Under Florida Law, minor irregularities, such as the late submission of a document that does not affect the competitive advantage or the interests of the City, can be waived, allowing the vendor to proceed to the negotiation phase. *See Robinson Elec. Co., Inc. v. Dade County*, 417 So. 2d 1032, 1034 (Fla. 3d DCA 1982), where the court set forth the analysis for determining what constitutes a material variance or irregularity:

In determining whether a specific noncompliance constitutes a substantial and hence nonwaivable irregularity, the courts have applied two criteria—first, whether the effect of a waiver would be to deprive the municipality of its assurance that the contract will be entered into, performed and guaranteed according to its specified requirements, and second, whether it is of such a nature that its waiver would adversely affect competitive bidding by placing a bidder in a position of advantage over other bidders or by otherwise undermining the necessary common standard of competition.

As previously mentioned, the Procurement Division provided a SOC Report submission deadline of November 15, 2024. Blue Line Solutions timely submitted its SOC Report two (2) days before the deadline on November 13, 2024. At that time, Blue Line Solutions was already selected as the highest-ranked, responsive, and responsible firm. As **Ex. E** demonstrates, the submission of the SOC Report is procedural in nature to move the vendor forward to the competitive negotiation phase. Thus, even if late, such submission of this SOC Report, especially where its effective date preceded the RFP timeliness requirement, is a minor irregularity that the City should waive because it does not adversely affect competitive bidding by placing Blue Line Solutions, which was already determined to be the highest-ranked firm, in a position of advantage over other bidders nor does it deprive the City of its assurance that the contract will be entered into, performed and guaranteed according to its specified requirements.

Moreover, if anything, for this RFP, at most, the SOC report goes to the responsibility of a vendor, and the law is clear that the City may consider information regarding a vendor's responsibility up to the time of award. It is also important to highlight that the language in Addendum No. 3 intended the report to be produced after the evaluation and ranking meeting and to merely be a condition for the commencement of negotiations rather than play a role in the determination of responsiveness, which is determined at the time of proposal submission, or ranking, which was to occur before the submission of the SOC Report.

Where material, which goes to the responsibility of a vendor, is required by the City to be produced *after* the initial due date for the bid or proposal, the Chief Procurement Officer *shall* consider such submitted materials. *Cf.* Procurement Manual, at 37-38, § M.11.c.2), 3) & 4). Further, the City's Procurement Code specifically permits such matters a technicality or irregularity that may be waived by the Chief Procurement Officer. Where as here, the matter to be waived is to the highest ranked vendor, it is arbitrary and capricious not to waive such a minor irregularity.

V. CONCLUSION & REQUEST FOR RELIEF

Local governmental agencies must evaluate proposals consistent with the solicitation's terms, and exercise its discretion based upon clearly defined criteria. *City of Sweetwater v. Solo Const. Corp.*, 823 So. 2d 798, 802 (Fla. 3d DCA 2002). To award this contract to RedSpeed Florida, LLC is contrary to the terms of this solicitation and the representations made by the government agency

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Page 9

when Blue Lines Solution is the first ranked, responsive, and responsible vendor, which timely submitted its SOC Report consistent with the interpretation of days as evidenced in the RFP.

Therefore, as a matter of law and public policy, the City should rescind the Award Recommendation to RedSpeed Florida LLC and award Blue Line Solutions LLC.

Sincerely,

Shutts & Bowen LLP



Joseph M. Goldstein

Attachments

FTLDOCS 9507939 2

ITB AWARD RECOMMENDATION / INTENT TO AWARD

PROCUREMENT SPECIALIST: Kirk McDonald

DATE: 01/16/25

ITB#: 332 **ITEM / SERVICE:** Automated School Zone Speed Detection Camera System

Attached are apparent low bid(s) and a tabulation for subject items/services requisitioned by the department.

RECOMMENDATION:

A. Which vendor is recommended for Award? RedSpeed Florida

B. Does this meet specifications as per the department's request and as advertised? YES NO

If NO, is the variance considered: MINOR MAJOR

Explain:

C. Is the recommendation the lowest bid received? YES NO

D. List the Bids that are low but DO NOT meet specifications and list reasons why each does not meet specifications:
attach a memorandum of explanation to this form if necessary.

The highest ranked firm, Blue Line Solutions, LLC did not meet the time deadline requirements to submit its SOC2. The City is moving to the next highest ranked firm, RedSpeed Florida LLC.

(Attach an additional sheet if further comment or explanation is required.)

Glenn Marcos
SIGNATURE: _____
Digitally signed by Glenn Marcos
Date: 2025.01.16 11:40:59 -05'00'
Chief Procurement Officer or designee

Date: 1/16/25

THIS FORM MUST BE COMPLETED FOR ALL AWARD RECOMMENDATIONS OF \$25,000 AND ABOVE.

Over \$25,000 YES NO



ADDENDUM NO. 3

RFP No. 332

TITLE: Automated School Zone Speed Detection Camera System

ISSUED: August 30, 2024

This addendum is being issued to make the following change(s). The **underline** denotes addition and ~~strike through~~ denotes deletion.

1. Event Dates

Change From:

Close: 08/30/2024 02:00:00 PM.

Change To:

Close: 09/06/2024 02:00:00 PM.

2. Section 2.45, Service Organization Controls

Change From:

The Contactor should provide a current SSAE 18, SOC 2, Type I report with their proposal. Awarded Contractor will be required to provide an SSAE 18, SOC 2, Type II report annually during the term of this contract. If the Contractor cannot provide the SSAE 18, SOC 2, Type I report at time of proposal submittal, a current SOC 3 report will be accepted.

Change To:

Negotiations will occur with the highest ranked, responsive, and responsible firm contingent upon receipt of ~~The Contractor should provide~~ a current SSAE, SOC 2, Type I report ~~with their proposal~~ to be provided within 60 days after proposal due date. Awarded Contractor will be required to provide an SSAE 18, SOC 2, Type II report annually during the term of his contract. If the Contractor cannot provide the SSAE 18, SOC2, Type I report at the required time of proposal submittal, a current SOC 3 report will be accepted.

***Note- All changes to the above and any other section regarding same, if applicable, shall be in effect.**

All other terms, conditions, and specifications remain unchanged.



City of Fort Lauderdale Procurement Services Division
101 NE 3rd Avenue Fort Lauderdale, Florida 33301
954-828-5933 Fax 954-828-5576
purchase@fortlauderdale.gov

Kirk McDonald
Senior Procurement Specialist:

Company Name: _____
(please print)

Bidder's Signature: _____

Date: _____

On Nov 20, 2024, at 1:03 PM, Jason Friedberg <jfriedberg@bluelinesolutions.org> wrote:

Regards,
Jason

[Jason Friedberg](#)

Vice President of Sales & Marketing

<Image.jpeg>

M: 267-671-2613
4409 Oakwood Dr.
Chattanooga, TN 37416

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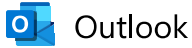
From: Jonmichael Mullins <jmullins@bluelinesolutions.org>
Sent: Wednesday, November 20, 2024 1:00:13 PM
To: Jason Friedberg <jfriedberg@bluelinesolutions.org>
Subject: Fw: Blue Line Solutions SOC 2 Report

From: Jonmichael Mullins <jmullins@bluelinesolutions.org>
Sent: Wednesday, November 13, 2024 5:56 PM
To: Kirk McDonald <KMcDonald@fortlauderdale.gov>; Jason Friedberg <jfriedberg@bluelinesolutions.org>
Subject: Blue Line Solutions SOC 2 Report

Good Evening. Please see the BLS SOC 2 report attached. If you have my questions, or need anything else at all, feel free to reach out.

-JM Mullins
938-207-9197

Get [Outlook for iOS](#)
<Blue Line Solutions LLC SOC2 Type I Report - Final.pdf>



[Draft] Fw: Evaluation Committee Meeting Agenda for Event 332: Automated School Zone Speed Detection Camera System: Reference check

From
Draft saved Thu 11/21/2024 15:36

From: Kirk McDonald <KMcDonald@fortlauderdale.gov>
Sent: Wednesday, November 13, 2024 6:17:36 PM
To: Jason Friedberg <jfriedberg@bluelinesolutions.org>
Cc: Jonmichael Mullins <jmullins@bluelinesolutions.org>
Subject: RE: Evaluation Committee Meeting Agenda for Event 332: Automated School Zone Speed Detection Camera System: Reference check

Dear Jason,

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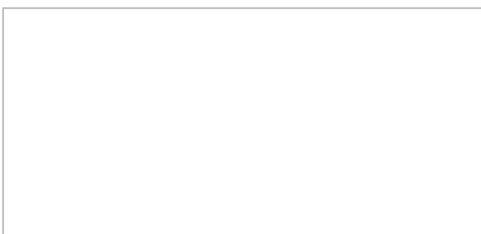
Subsequently, Competitive Negotiations is the next phase of this competitive process. Blue Line Solutions, LLC is to submit its SOC Report as required by the above-mentioned Addendum No. 3 language by no later than **Friday, November 15th, 2024, at 5:00p.m.** Feel free to contact me with any questions you may have.

Respectfully,

Kirk McDonald
Senior Procurement Specialist

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