



December 4, 2024

VIA EMAIL: bernadette.catalan1@dc.gov

Bernadette Catalan
Contracting Officer
Office of Contracting and Procurement
441 4th Street NW, Suite 300
Washington, DC 20001

RE: Approval of OCP's Request to Waive Set-Aside Requirement for Follow-on Acquisition

The District of Columbia (“D.C.” or “District”) Department of Small and Local Business Development (“DSLBD”) writes to follow up on your November 4, 2024, letter requesting to waive the set aside requirement for Bid Solicitation No. DOC727217 concerning the Department of Youth Rehabilitation Services’ (“DYRS”) National School Breakfast and Lunch Program.

Pursuant to D.C. Official Code § 2-218.45 if an agency determines in writing that there are not at least two qualified small business enterprises (“SBE”) that can provide the services or goods that are subject to the contract, the agency may use any qualified certified business enterprise (“CBE”) to fulfill the requirements. An agency may decline to award a contract or procurement set aside and may issue the contract or procurement in the open market, if the agency determines in the writing that the bids for the contract or procurement set aside for an SBE or CBE are believed to be 12% or more above the likely price on the open market.

Further, where a contract or procurement is awarded by a District agency to an SBE or CBE, its follow-on or renewable acquisition shall be set aside for SBEs or CBEs pursuant to D.C. Official Code § 2-218.45a. An agency that would like to fulfill a follow-on or renewable acquisition without using such business enterprises shall make a written request to the Director and receive written approval from the Director to allow the agency to waive the requirements.

Here, the previous contract was awarded by the Department of Youth Rehabilitation Services (“DYRS”) to a CBE. However, based on the written request by the Office of Contracting and Procurement (“OCP”) submitted to DSLBD on November 4, 2024, the contractor did not have a satisfactory performance record. Specifically, DYRS found that the CBE did not have the necessary organization, experience, accounting, operational, or technical skills to fulfill the contract requirements. Due to the performance issues and after cure notices failed to be satisfied, DYRS did not exercise option year three under Contract No. CW95601.

As a result, OCP posted Bid Solicitation No. DOC727217 in the set-aside market. One CBE bid was received. The CBE bid price was 13.7% higher than the “independent government estimate” obtained by



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OCP. Additionally, OCP conducted market research under NIGP Code 9624000 for Food Distribution Services. However, OCP did not find any CBEs that demonstrated the necessary capability or capacity to meet the specific needs of the contract. Therefore, based on (1) the performance deficiencies of the previous contractor, (2) DSLBD's review of the DYRS' assessment, (3) the sole CBE bid being over 12% higher than the likely open market price, and (4) the aforementioned provisions of the DC Code, OCP's written request to waive the set-aside requirement for the applicable follow-on and renewable acquisition of goods/services is hereby granted.

If you have any questions regarding this correspondence, please contact Benjamin Cobb, Interim Manager of Compliance & Enforcement, at Benjamin.Cobb@dc.gov or 202-727-3900.

Best regards,



Rosemary Suggs-Evans, Director



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