



United States Department of the Interior

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IN REPLY REFER TO:
IMR-ACM

APR 7 2014
Memorandum

To: Administrative Record of CC-YELL5XX-14 Evaluation Panel

Through: Regional Director, Intermountain Region

From: Chief of Concessions, Intermountain Region

Subject: Recommendations on Responsiveness for Concession Contract Proposals Submitted in Response to YELL5XX-14 Solicitation for Guided Interpretive Oversnow Vehicle Tours within Yellowstone National Park

The "Recommendations on Responsiveness for Concession Contract Proposals Submitted in Response to YELL5XX-14 Solicitation for Guided Interpretive Oversnow Vehicle Tours within Yellowstone National Park" contains my recommendations regarding the responsiveness of each of the offers.

In accordance with 36 C.F.R. §§51.26 and 51.27(b), if the Director (or Regional Director, in this case, pursuant to the written delegation of authority) makes the determination that an Offeror did not submit a responsive proposal, then that Offeror should not be considered for contract award.

This memorandum forwards to you recommendations from this office on the responsiveness of proposals received by the National Park Service (NPS) for Prospectus CC-YELL5XX-14 (YELL OSV Prospectus). The Service will award twenty-three separate contracts under the YELL OSV prospectus. To be eligible for selection, Offerors were required to submit a responsive proposal for each contract for which it wanted to be considered for award. Proposals were due February 10, 2014. The Service received 158 offers in total for the 23 contracts. Many Offerors submitted identical offers for different contracts.

The Panel convened at the USGS National Training Center in the Lakewood Federal Center from February 24, 2014, through March 7, 2014. Because of the large number of contracts being awarded and the significant number of proposals received, the Intermountain Concessions Office (ICO) took a preliminary review of the proposals received to make sure that the proposals were facially responsive. Specifically, the ICO reviewed the proposals to make sure that they contained a signed transmittal letter; both an electronic and hard-copy version of each contract the Offeror was applying for; and, if the Offeror was applying for multiple contracts, a separate sheet of paper identifying how many contracts the Offeror had the capacity to conduct and the priority order in which it wanted to receive award.¹

¹ The requirement that each offeror identify the number of contracts it has the capacity to conduct and the priority order is unique to this Prospectus. Given that there are so many contracts, the Service wanted to maximize an offeror's ability to apply for as many contracts as it wanted to, but to advise us the maximum number it could operate under and the priority order for award.

During the preliminary review, the ICO found that several Offerors made mistakes or had omissions in their submissions. In situations where this office believed that the mistake or omission could properly be clarified or a proposal could be amended pursuant to 36 CFR §51.15(a), we requested your determination so that the Panel could request clarifications or amendments, as appropriate, from Offerors before the panel convened.

The ICO did not request that the Regional Director make any determination on the responsiveness of Offerors prior to the panel reviewing the proposals. Instead, the Panel reviewed all of the offers even if the Panel identified concerns regarding the responsiveness of these offers. This memo represents this office's recommendations on responsiveness of the offers submitted in response to the YELL ÖSV Prospectus for your review and determination.

A. Responsiveness Requirements

36 C.F.R. §51.81 states that NPS must reject any proposal received, regardless of the franchise fee offered, if the proposal is not a responsive proposal. Pursuant to 36 C.F.R. § 51.3, a responsive proposal means a "timely submitted proposal that is determined by the Director as agreeing to all of the minimum requirements of the proposed concession contract and prospectus and as having provided the information required by the prospectus."

The Proposal Instructions at 1(c) and (d) in the Prospectus provide some additional guidance regarding how the Service will assess whether a proposal is responsive:

Only an Offeror submitting a responsive proposal is eligible to be awarded the new concession contract. A responsive proposal means a timely submitted proposal that is determined by the Service as agreeing to all of the minimum requirements of the draft concession contract and Prospectus and as having provided the information required by the Prospectus. The minimum requirements for the draft concession contract are identified in Part A of the Proposal Package.

Information "required by the Prospectus" refers to information expressly required by the Prospectus and that is material, as determined by the Service, to an effective evaluation of the proposal under the applicable selection factor.

B. All Offerors Agreed to the Minimum Requirements of the Draft Contract

The minimum requirements of the draft concession contract are identified in Part A of the Proposal Package. Offerors are advised in Part A that their offers will not be considered responsive if they do not agree to all of the minimum requirements of the prospectus identified in Part A. By signing the Offeror's Transmittal Letter and submitting its proposal, the Offeror agrees to meet the requirements in Part A.

All of the Offerors signed the Offeror's Transmittal Letter without alteration, and all of the Offerors' Transmittal letters bear the original signatures of the Offerors.

As a result, I recommend you determine that all of the Offerors agreed to the minimum requirements of the prospectus.

C. Offerors that Provided the Information Required by the Prospectus and Responsiveness Determinations Associated with these Offers

With respect to whether the Offerors provided the information "required by the Prospectus," the Proposal Instructions provided in the Prospectus describes this information as "information expressly required by

the Prospectus and that is material, as determined by the Service, to an effective evaluation of the proposal under the applicable selection factor.”

The Panel reviewed all of the information provided in response to the prospectus questions to determine whether the Offerors responded and rated each Offeror on its response. If an Offeror failed to provide something requested by the prospectus, the Panel advised me of its concern.

The following is a list of offers where the Panel found that the Offerors submitted all of the information requested by the prospectus. Therefore, the Panel did not find any questions of responsiveness:

1.

2.

3.

4.

5.

6.

7.

8.

2. Responsiveness Recommendation and Determination for Heart Six Ranch

Heart Six Ranch (HESI) submitted proposals for Contract Nos: 512, 513, 514, 515, 516, 517, 518, 519, 520 and 521 for the South entrance to the Park. HESI was allowed to clarify its proposals after the Panel noted that HESI had made an error when submitting its "Certificate of Business Entity Offer." The Director determined that it was the type of information that HESI could provide pursuant to a clarification. After HESI provided the requested clarification, the Panel reviewed HESI's proposals and brought another error to my attention that may impact whether you determine HESI's offers responsive. Because HESI did not score high enough to receive any contract awards, a determination on responsiveness does not change the outcome of the Panel's recommendation.

General Failure to follow Instructions and Provide Information

The proposal instructions require the Offeror to submit its offer along with one identical hard copy and one electronic copy, identical to the hard copy. The instructions specifically state that

[i]n order to facilitate discussion and review of proposals among evaluation panel members, the electronic copy must be in a format that can be shared, copied, and passed easily. Microsoft Office programs or an Adobe PDF electronic version that allows for copying and pasting of text using Adobe Reader software are acceptable. However, you must provide all financial spreadsheets in Microsoft Excel in the format provided.

HESI only provided forms in a PDF format, not Microsoft Excel.

Failure to Provide all the Information Required Pursuant to Principal Selection Factor 4.

- a. PSF4(c) requires the Offeror to demonstrate its ability to obtain the required funds for start-up costs and additional investments. HESI Submitted a narrative description stating that it will obtain the required funds through a loan from [REDACTED] HESI submitted personal financial statements in the name of [REDACTED] that showed a cash balance of [REDACTED] at February 29, 2012, which is greater than the start-up costs HESI previously estimated however the Panel noted that financial statements provided were outdated. HESI provided a current bank balance of [REDACTED] as of January 14, 2014. [REDACTED] was listed on both the personal financial statements and the current bank statement; however, the Panel could not locate a commitment letter from [REDACTED] to use the personal funds for HESI. The Panel felt that HESI did not provide sufficient evidence that it will have the required funds due to the lack of recent financial statements and lack of commitment letter from [REDACTED]

ICO Recommendation regarding HESI's Responsiveness

It is ICO's recommendation that you find HESI's offers nonresponsive because HESI was unable to provide credible evidence that it could obtain the required funds for start-up costs under the draft contract.

Approve HESI offers as Responsive

Disapprove HESI offers as Responsive

Sue E. Masica, Regional Director



Sue E. Masica, Regional Director

Other Determination as follows: