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Per SC Code of Laws, Title 30, Chapter 4, Section 30-4-80 - All public bodies shall notify persons or organizations, local news media, or such other news media as may request notification of the times, dates, places, and agenda of all public meetings, whether scheduled, rescheduled, or called, and the efforts made to comply with this requirement must be noted in the minutes of the meetings.

Central Midlands Regional Transit Authority
TRANSIT OPERATOR RFP SUBCOMMITTEE MEETING
Monday, September 16, 2019 - 11:30 A.M.
3613 Lucius Road, Columbia, SC 29201 – Small Conference Room

Members Present:

Derrick Huggins
John V. Furgess, Sr.
Firm Lill Mood
Dr. Robert
Morris Andy
Smith

Guests Present:

Leo Auger, Auger Consulting
Pamela A. Baker, Burr, Foreman, McNair Law

*Indicates participation by phone.

The COMET Staff Present

John Andoh, Executive Director/CEO
LeRoy Deschamps, Director of Administration & Operations/COO
Paige Jernigan, Interim Administrative & Customer Service Specialist
Dr. Arlene Prince, Director of Regulatory Compliance & Civil Rights Officer

1. CALL TO ORDER

Mr. Huggins called the meeting to order at 11:30 a.m.

2. ADOPTION OF

AGENDA Motion:

A motion was made by Mr. Furgess and seconded by Mr. Smith to adopt the agenda. Approved: Furgess, Huggins, Mood, Morris, Smith

Absent: None

Motion passed.



Mr. Huggins began the meeting by stating that he expects this to be an open process and transparent. He added that the Committee will work closely with Attorney Baker to ensure a smooth process without any protest. Attorney Baker mentioned that she has a copy of the Procurement Plan and currently is reviewing it. She stated she would be very mindful to prevent any protest.

Mr. Huggins mentioned that Mr. Auger, our consultant is here for guidance and expertise, but he urged the committee members to be vocal and interactive in leading this process. Dr. Morris suggested Attorney Baker consult with Attorney Crum to review the processes from the last Request For Proposal (RFP).

Mr. Furgess asked about the seven (7) providers listed and if anything has been made public regarding this process. Mr. Andoh confirmed that no information has been provided publicly. Mr. Andoh mentioned that the seven (7) providers either reached out to The COMET or we reached out to them directly.

Mr. Huggins stressed the importance of the Disadvantaged Business Enterprise (DBE) component and Dr. Prince's involvement. He commented that he has some ideas to strengthen the pool of DBE candidates. He requested confirmation of the DBE percentage. Mr. Andoh confirmed that DBE and Minority Women Business Enterprise (MWBE) are two completely different things. Mr.

Andoh explained that the DBE, goal set with the Federal Government percentage is 5% for The COMET. MWBE is a percentage that the Board can set but we need to create a policy. Mr. Andoh stated to be mindful that we will be reporting the federal dollars as part of our Federal DBE requirement.

Mr. Smith reminded that what we set for the contract goal will help us meet the federal goal. Dr. Prince restated that our goal with The COMET is currently 5% and expires September 30, 2019 and our new goal will be 5.7% starting October 1, 2019 with the Federal Government. Dr. Prince explained the difference between race conscious versus race neutral. Race conscience means there is a contract goal, but the percentage may vary. Race neutral counts participation towards the DBE but there is no goal upfront on projects, but the DBE may get the contract.

Mr. Furgess asked if the goal is to do a transportation contract and separate as much as we can of current DBE's to a separate contract. Mr. Huggins stated the importance of relying heavily on the staff to make recommendations on how to determine that question. Mr. Furgess reminded the committee that the percentage of the DBE is up to the contractor and expressed concern of going lower than our current percentage number.

Ms. Mood mentioned that it matters where the DBE is placed. She commented that there are things put in the contract for Transdev through the DBE resulting in a higher number. Ms.



Mood added perhaps The COMET could work with the DBE directly? Mr. Furgess stated that if we deviate from our current DBE processes, this would change the management structure. Ms. Mood used the example of janitorial services and The COMET monitoring and paying for the service as opposed to holding Transdev responsible. Mr. Furgess stated that if that is the case, the CEO would need to be compensated for monitoring the janitorial service.

Mr. Andoh clarified that before 2015 the DBE functions were monitored by The COMET with less staff. Certain functions on a staff of eleven (11) we could now absorb. Not all functions require additional resources on the staff side. He used New Orleans RTA structure as an example. Dr. Morris warned that we need to be careful about what The COMET takes on. Dr. Morris stated that one of the factors for awarding Transdev the contract was based on their 25.9% DBE offer. Mr. Andoh stated that we need to evaluate the technical, fiscal, and managerial capacity to make sure our contractor is staffed properly.

Mr. Furgess reminded that politically we need to remember how difficult and stressful it was to obtain the Penny. Dr. Morris agreed with Mr. Furgess and added that we must be very careful that we aren't wasting dollars regarding the Penny. Attorney Baker agreed with all subjects that have been raised and stated that we need to make sure the DBE formula will benefit everyone.

Mr. Huggins asked about an offline meeting/work session and what the public needs to be aware of? Mr. Andoh stated that only need to be taken to the public if a decision is made during that meeting. Mr. Huggins added that he would like Attorney Baker present in those meetings.

3. DISCUSSION & ACTION ITEMS

A. Request for Information Process, MWBE/DBE and Timeline

Mr. Andoh introduced Mr. Auger of Auger Consulting and briefly explained the RFI process. Mr. Auger stated this process is relatively new to the industry. He added that we would invite all interested providers to a one-day workshop at The COMET administrative offices. The day will include a site visit to review the previous RFP and contract seeking means of improvement to the benefit of The COMET and the future provider. Providers that provide both fixed route and paratransit service would be invited for input.

All seven national firms expressed interest and said they would likely submit a proposal.

- First Transit
- MV Transportation
- RATP Dev
- National Express Transit
- Keolis Transit Services
- MTM Transit
- Transdev



Mr. Andoh commented that six (6) of the providers bid on the 2014 procurement. He stated that National Express Transit is the only one who did not bid in the 2014 procurement. MV Transportation is African American owned business and MTM Transit is a woman owned company. Items of discussion are the elements of pricing based on fixed cost and variable cost, liquidated damages and bonuses, staffing qualifications, division of responsibilities between The COMET and the private operator and innovations in transit. Ms. Mood asked during this part of the process, is it unreasonable for the providers to put the innovations piece in in RFI process? Mr. Auger stated that the innovations portion would be later in the process when they are less guarded. But added that we could ask for innovations up front to see what they present.

Mr. Auger summarized the variable cost pricing slide on Page 7 of the presentation. He described that the costs for the expenses are impacted by the number of hours of revenue service or paratransit vehicle hours based on a "gate to gate" model. Mr. Auger reviewed the difference between the variable versus fixed costs. Ms. Mood asked about the overhead cost percentages in the presented contracts. Mr. Auger explained that the companies will give you their overhead calculations and we can ask why the rates are higher than others.

Mr. Huggins asked who sets the depreciation expenses. Mr. Andoh answered that it would be the contractor. Mr. Auger referred to Page 11 and explained the assets provided by The COMET. Additionally, the paratransit software may be an asset that could be provided by The COMET. Ms. Mood expressed concern about the management of the software. She suggested a cleaner way to put in the contract a way to obtain the software data.

Mr. Smith mentioned that the depreciation is a "sticky subject" based on our assets on The COMET books. He stressed that this could be a perception issue regarding the Penny. Mr. Andoh stated that Department of Revenue has provided us with guidelines for reasonable mass transit operating expenses.

Mr. Auger reviewed the Present Liquidated Damages slide on Page 12. He spoke about the current contract on the key performance indicators. Currently the measurement for on time performance is below 92%. Typically, on time performance measures are around the mid to high 80% range. Currently this period is being monitored quarterly, which is concerning. Mr. Auger suggested this should be looked at monthly. He added that often RFP contracts have an above and beyond incentive plan. Dr. Morris asked who sets the assessment rate for on time performance. Mr. Auger stated that The COMET would set this in this case. Mr. Andoh and Attorney Baker urged that this number needs to be quantifiable according to the FTA third party contract circular.

Mr. Auger briefly touched on the DBE section in the presentation. Mr. Andoh stated that this is the federal definition of DBE. Mr. Smith asked about where the state level of DBE participation lies. Mr. Andoh explained the next slide on Page 17 would help in understanding the levels of participation.



Dr. Morris observed that the \$1.32 million amount seems low. Dr. Prince explained that this percentage does not include the business location. Mr. Andoh explained the ordinance for the MWBE programs, and the net worth parameters allowed in the procurement process. Dr. Prince suggested that The COMET create our own program.

Ms. Mood inquired about the local preference policy. Mr. Andoh stated that the DBE could be pulled out of the local preference policy but not if it is tied to federal funds. Dr. Morris wanted clarification of the word "local." Mr. Andoh stated per the procurement process, local is considered Richland and Lexington counties. Mr. Andoh further explained that the federal fund components are: operations, ADA, preventative maintenance and security. Mr. Huggins requested a dollar amount to be determined for DBE. He would like it separated out by each category for the next break out session.

Mr. Andoh stated that Mr. Furgess requested more clarification on the prime contractor in a past Board meeting. Mr. Auger gave the example of cleaning of the vehicles done by subcontractor. He explained in this case, the liquidated issue would go directly to the Prime. He further explained that the Prime Contractor is responsible for the overall compliance of the contractor and meeting the requirements established by the agency. Any subcontractors provided are also responsible for meeting the same contractual items as the prime. It is up to the prime contractor to determine if they will cover any contractual costs or requirements on behalf of the subcontractor.

Mr. Auger explained that The COMET will be responsible for paying profit and overhead of the prime contractor, as well as profit and overhead of the subcontractor under this scenario. Mr. Andoh stated as result, we are paying profit twice. Ms. Mood asked if in RFP process, can we state what we will not pay for overhead cost of the contractor's CEO salary beyond a specified ceiling. Mr. Auger stated he was not sure. Attorney Baker stated that it would be difficult to do that because the salary is already set. Mr. Huggins requested a case study/for instance to help aid in answering this question. Mr. Andoh suggested looking at last year's contract.

Mr. Andoh explained that currently Transdev mirrored The COMET bonding requirements to the subcontractors. Attorney Baker asked if there was any oversight of the contractors regarding the DBE's and stated that we will add language in the contract to make sure the prime and subcontractors are complying with payment of the DBE's subcontractor. Dr. Morris agreed.

Mr. Auger showed examples of profit and overhead on Page 18. Mr. Smith requested Charleston's budget for a future meeting. Mr. Andoh said our operating budget is the same as Charleston. Mr. Furgess urged that we can't make a comparison to Charleston. Mr. Andoh suggested comparing budgets in both income and revenue line items.



Mr. Andoh mentioned that most DBE's prefer working directly with the agency instead of the prime contractor. Mr. Furgess mentioned that could cause issues in terms of bank loans, bonding, insurance by separating from the prime. Mr. Andoh agreed but stressed we will need to make reasonable accommodations for the DBE's. Mr. Huggins stated that we need to address challenges through procurement concerns such as adding bonding classes for support.

Mr. Smith wanted clarification on how much input we have with the subcontractor. Attorney Baker asked how the current subcontractors are paying the bonding/insurance if Transdev is currently mirroring The COMET. Mr. Andoh confirmed that The COMET is paying more to cover the additional bonding/insurance cost as it was built into Transdev's budget. Mr. Smith asked if we set a rubric with prime and subcontractors before the procurement process begins. Mr. Andoh agreed and stated that we can break this down into categories. Discussion ensued regarding bonding requirements of the subcontractors. Ms. Mood recommended a clear and simple chart explaining DBE participation percentages. Mr. Andoh agreed and added that we could refer to the DBE directory. Dr. Prince also suggested outreach to see if any firm wants to become certified as well.

Mr. Auger stated that usually six (6) months is a good transition time if we do change service providers. He added that the incoming contractor usually just transition the current staff. He did mention that some people could be moved to another location or they remain under a trial period. Mr. Huggins urged that he wants to make sure that the staff is not concerned about their positions. Mr. Andoh stated that they are protected by Federal 5333B, for collective bargaining.

Ms. Mood stated that the last contract the key personnel were identified in the contract. Mr. Andoh agreed that would occur for key personnel. He added that it is not in our best interest to get involved in staff selections. However, we need to identify the key positions and establish basic criteria that is expected from The COMET.

Dr. Morris asked about a "call back" period if we have additional questions. Mr. Auger added that in the pre-bid conference there will be an opportunity to ask questions. Attorney Baker stated that she will examine the procurement process and get more clarity to the "call back" period. During this time, we can ask about issues or questions. Mr. Huggins stressed the importance of having technical advisors that have input in this committee. Attorney Baker stated that this can be done in the pre-bid but not once the proposals have been submitted.

Ms. Mood stated that we are not the evaluation committee but the RFP committee. She added there may be some overlap. Mr. Andoh agreed, and Attorney Baker stated that this group will develop the RFP. Mr. Andoh summarized that we are simply asking to get the RFI out and referred to the packet. Mr. Huggins informed that all responses need to include everyone in the committee and make sure there is no deviation in what has been discussed.



Motion:

A motion was made by Ms. Mood and seconded by Dr. Morris to proceed with the

RFI. Approved: Furgess, Huggins, Mood, Morris, Smith

Absent: None

Motion passed.

The next committee meeting will be October 16, 2019 from 11:30 a.m. to 1:30 p.m. Mr. Andoh stated the working group will meet on September 30, 2019 at 11:30 a.m. to 1:30 p.m. Mr. Huggins asked for comprehensive data, dashboard, comparison of Charleston transit service, and the DBE per category for the next upcoming meetings.

4. ADJOURN

No motion needed for
adjournment. The meeting
adjourned at 1:36 p.m.

CENTRAL MIDLANDS REGIONAL TRANSIT AUTHORITY

Adopted this October, 2019, Agenda Item _____

Prepared by:


Paige Jernigan, Interim Administrative & Customer Service Specialist

Approved by:


Andy Smith, Secretary