

Department of General Services

Michael M. Morse, Director



Divisions

Administrative and Business Services
Construction Management and Inspection
Contract and Purchasing Services
Facility and Property Services
Fleet Services

County of Sacramento

December 6, 2013

VIA E-MAIL

Bryan L. Hawkins
Stoel Rives, LLP
500 Capitol Mall, Suite 1600
Sacramento, CA 95814

Subject: Response to Protest of Notice of Intent to Award for Request for Proposal #8041, Red Light Photo Enforcement System

Dear Mr. Hawkins:

I. INTRODUCTION

The County of Sacramento, Department of General Services, Contract and Purchasing Services Division has completed its review of the bid protest submitted by your firm on behalf of American Traffic Solutions, Inc ("ATS"). After a careful and thorough review of the issues raised in your bid protest, a determination has been made that the issues raised are not valid. The purpose of this letter is to address the issues and arguments raised in the protest letter and to provide the reasons for our determination based upon the facts.

II. ISSUES

The bid protest letter states that:

"ATS protests the proposed award on the grounds that: (a) the rating factors and evaluation criteria put ATS at an unjust disadvantage in the bid review process, (b) ATS provided the overall best value response and that the County erred in not recommending ATS for the award of the contract, and (c) the County failed to follow written policy and procedures where it proposes to award the contract to Redflex, despite Redflex apparently having failed a material requirement of RFP #8041 (Appendix F), and where the County failed to account for the risks inherent in Redflex's public admission of collusion (Appendix K) in previous public bidding on projects for similar services."

County of Sacramento, Department of General Services, Contract and Purchasing Services Division
Response to Protest of Notice of Intent to Award for Request for Proposal #8041
Red Light Photo Enforcement System

The formal arguments presented in the protest letter for items (a), (b), and (c) above are as follows:

Protest Items (a) and (b): “The County Erred in Not Awarding the Contract to ATS, Which Provided a Responsive and the Best Value Bid to the County for Red Light Photo Enforcement Systems”

Protest Item (c): “The County Failed To Follow Written Policy and/or Procedures”

Each of the three protest items above are addressed below.

Bid Protest Items (a) and (b)

The arguments presented in the protest letter for items (a) and (b) focus on two issues: Pricing and Risk.

Pricing

The protest letter states that “(a) the rating factors and evaluation criteria put ATS at an unjust disadvantage in the bid review process.” In support of bid protest item (a), the protest letter states that “Evidently, the County evaluated pricing only for existing (not additional) intersections, which is inconsistent with RFP #8041’s bid evaluation process and instills bias and disadvantage in the procurement process because Redflex, as the incumbent, would invariably enjoy the lowest cost.”

While it is true that Redflex is the incumbent, it is not true that the County evaluated pricing only for existing intersections. The pricing scores for each of the proposals are based on the combined total pricing for the existing 26 intersections *and* the additional 14 intersections, which is consistent with the RFP.

Proposals were scored according to the following evaluation criteria and weights, which were established prior to the release of the RFP. The evaluation criteria (not the weights) were included in the RFP document:

Evaluation Criteria	Weight
Company Qualifications and References	20%
System Capabilities	25%
Customer Service and Support	20%
Pricing	25%
Risk Assessment	10%
Total	100%

County of Sacramento, Department of General Services, Contract and Purchasing Services Division
 Response to Protest of Notice of Intent to Award for Request for Proposal #8041
 Red Light Photo Enforcement System

The proposals included monthly pricing quoted on a turnkey, all-inclusive rate, per installed intersection:

Proposer:	Redflex	ATS	Xerox	Gatso
Monthly price for each of the initial 26 intersections, per approach	per month:	per month:	per month:	per month:
Straight through only with up to 4 lanes enforced (per month, per intersection)	\$3,400.00	\$3,750.00	\$4,240.00	\$7,100.00
With additional left turn enforcement, 2 left turn lanes enforced (per month, per intersection)	\$3,400.00	\$4,750.00	\$5,410.00	\$9,760.00
With additional right turn enforcement (per month, per intersection)	\$3,400.00	\$3,750.00	\$4,370.00	\$9,760.00
Monthly price for each of the additional 14 intersections, per approach	per month:	per month:	per month:	per month:
Straight through only with up to 4 lanes enforced (per month, per intersection)	\$4,700.00	\$4,250.00	\$5,150.00	\$6,350.00
With additional left turn enforcement, 2 left turn lanes enforced (per month, per intersection)	\$4,700.00	\$4,750.00	\$6,320.00	\$9,010.00
With additional right turn enforcement (per month, per intersection)	\$4,700.00	\$4,250.00	\$5,280.00	\$9,010.00

In their written proposal response, Redflex also offered the first 3 (of 14) additional intersections at no cost to the County, for the life of the contract. Annual total price was determined by applying the monthly proposed pricing for each vendor for a total of 40 intersections, according to the following quantities:

County of Sacramento, Department of General Services, Contract and Purchasing Services Division
 Response to Protest of Notice of Intent to Award for Request for Proposal #8041
 Red Light Photo Enforcement System

Initial 26 intersections:	Quantity
Straight through only with up to 4 lanes enforced	3
With additional left turn enforcement, 2 left turn lanes enforced	23
With additional right turn enforcement	0
subtotal quantity:	26
Additional 14 intersections:	
Straight through only with up to 4 lanes enforced	2
With additional left turn enforcement, 2 left turn lanes enforced	12
With additional right turn enforcement	0
subtotal quantity:	14

Based on the proposed monthly unit pricing and the total quantities above for a total of 40 intersections (including the first 3 of the additional 14 intersections being provided by Redflex at no cost to the County), the total annual cost for each vendor is shown below:

Vendor	Annual Cost
Redflex	\$1,681,200
ATS	\$2,232,000
Xerox	\$2,679,480
Gatso	\$4,399,200

Pricing points were determined by percentage ratio to the low evaluated bid price. The low evaluated bid price was Redflex at \$1,681,200, which resulted in Redflex receiving the full 25 points possible for the Pricing evaluation criteria. The low evaluated bid price of \$1,681,200 divided by ATS's evaluated bid price of \$2,232,000 equals 0.75. The 0.75 factor is applied to the total possible points of 25 for price, which equates to a Pricing score of 18.83 for ATS.

The basis for award was clearly stated in the RFP:

“This proposal award will be determined by factors other than price alone. The County’s sole purpose in the evaluation process is to determine from among the Responses received, which one is best suited to meet the County’s needs. Any final analysis or weighted point score does not imply that one proposal is superior to another, but simply that in our judgment the proposal(s) we select offer(s) the best overall solution for our current and anticipated needs.”

Furthermore, the RFP clearly states:

“Proposals in response to this RFP must be complete. Proposals that do not include all mandatory submittals and that do not address each of the items listed in the RFP will be considered

County of Sacramento, Department of General Services, Contract and Purchasing Services Division
 Response to Protest of Notice of Intent to Award for Request for Proposal #8041
 Red Light Photo Enforcement System

nonresponsive and will receive no further consideration. Proposals that are deemed to be responsive will be reviewed by the ET. Further consideration will be based on the cumulative scores from the following Evaluation Criteria:

Evaluation Criteria
Company Qualifications and References
System Capabilities
Customer Service and Support
Pricing Proposal (Appendix I)
Risk Assessment Response (Appendix K)

(end quote)

All 4 proposals received by the County included all mandatory submittals and addressed each of the items listed in the RFP and were therefore considered responsive. As stated in the RFP, the final point scores are based on the *cumulative* scores from the Evaluation Criteria, which are summarized below:

Proposer	Qualifications and References Score (20 points)	System Capabilities Score (25 points)	Customer Service/Support Score (20 points)	Pricing Score (25 points)	Risk Score (10 points)	TOTAL Score (100 points)
Redflex	18.60	16.88	12.50	25.00	10.00	82.98
ATS	19.40	18.44	12.50	18.83	10.00	79.17
Xerox	17.94	15.94	14.50	15.69	10.00	74.06
Gatso	14.13	16.25	8.50	9.55	10.00	58.44

Risk

The protest letter states that “Redflex risk score, however, is improperly inflated given the existence of confirmed and admitted ethical violations by Redflex.” The protest letter, including Exhibits E through I, include facts and media coverage on this issue.

In March of 2013, the Global CEO of Redflex, Robert DeVincenzi, personally met with Sheriff Scott Jones to address these allegations and explain the steps that have been taken to prevent future improprieties. Sheriff Jones and his executive staff are confident this was an isolated incident within this global company, involving a few employees and the City of Chicago. There is no indication whatsoever that any bribery, corruption, or unethical behavior has occurred with Redflex Traffic Systems in Sacramento County. Furthermore, Sheriff Jones and his executive staff are satisfied with the steps Redflex Traffic Systems has taken to avert this type of unethical behavior in the future.

In their written proposal response, including but not limited to Appendix K (“Contract Risk Assessment Questionnaire”), Redflex provided full disclosure of these allegations. All four bidders (including ATS) disclosed additional information to explain their responses to some of the

County of Sacramento, Department of General Services, Contract and Purchasing Services Division
Response to Protest of Notice of Intent to Award for Request for Proposal #8041
Red Light Photo Enforcement System

questions contained in Appendix K. The complete Appendix K responses from all four bidders were forwarded to the County Counsel's office for review and no concerns were expressed.

The past improprieties involving a past executive of Redflex and the City of Chicago are not considered to be a risk to the County of Sacramento. The County has five years of experience with Redflex successfully providing these services. Based on the answers provided by Redflex to the questions contained in Appendix K, including the additional explanations and disclosures, Redflex was awarded the full 10 points available for the Risk score. This is consistent with the assessment of Sacramento County Sheriff Scott Jones.

Bid Protest Item (c)

The protest letter states that "...either Redflex failed to sign the Affidavit (which is prohibited as it was a "required appendix" per page 12 of RFP #8041) or may have improperly signed the Affidavit. Assuming this to be the case, its proposal should have been subject to immediate disqualification pursuant to the County's established rules and procedures and the contract should have been awarded to ATS."

As stated previously, Redflex's proposal response included all mandatory submittals (including but not limited to fully completed and signed Appendices F and K) and addressed each of the items listed in the RFP and is therefore considered responsive.

III. CONCLUSION

After a careful and thorough review of the issues raised in your bid protest, a determination has been made that the issues raised are not valid. Consistent with the Sacramento County Charter, County Purchasing Code, the County of Sacramento, Department of General Services, Contract and Purchasing Services Division policies and procedures, and the requirements of Request for Proposal #8041, Redflex Traffic Systems, Inc. has been selected as the proposer whose proposal best meets the County of Sacramento's requirements and represents the best value.

The County of Sacramento would like to thank American Traffic Solutions for their participation in the bid process and encourage them to participate in future solicitations.

Sincerely,



Craig Rader, CPPO
Purchasing Agent
County of Sacramento
Contract & Purchasing Services Division