

From: Jose Rosario <joserosario2637@gmail.com>
Sent: Tuesday, March 3, 2020 8:09:23 PM
To: Scott, Esmond <Esmond.Scott@citynmb.com>
Subject: Re: Bid for City Attorney

Re: Bid for City Attorney

Mr. Manager,

As a resident of North Miami Beach for over 50 years some things have concerned me Over the weekend, I watched last week's special meeting considering the bid to privatize our city attorney's office. I was already hesitant whether this was a good idea but after watching the meeting I think the city needs to scrap this bid for reasonable legal and budget concerns. There are some issues so serious that I wonder if the city is opening itself up for liability.

Before I continue, can you let me know what will happen if the city decides to start over with the bid? Do we have a city attorney in the interim time should the city start over the bid or cancel it?

I will separate concerns between legal and budget issues highlighting my specific questions.

Legal.

1) I thought the city commission only authorized the possibility of privatizing our city attorney's office by requiring single attorneys to bid for the job like a human resources matter AND the law firm or group of attorneys with the expectation of receiving 20 or more responses to the bid.

Was it a requirement for the bid to have more responses and to ensure we received single attorneys applying for the job?

Other questions: Why did we only receive 5 bid responses? Do you think we did not advertise enough (what was done beyond the minimum legally required public notice)? Could we do better advertising if we started again? Why was the decision made to move forward with so few bid responses than expected? Was it clear in the original advertising that single attorneys could apply and were welcome to? Can you send me a copy of the original advertisement and receipts where the advertisements were placed and for how long?

2) As I understand, the bid required the Evaluation/Selection Committee to have a "minimum of (4) four Members to review proposals." We only had (3) three Members in the Evaluation/Selection Committee. First, why did the city only have 3 committee members when bigger bid committees are more reliable? Second, does having 3 committee members instead of more required in the bid mean the bid is flawed? Third, who made the selection of these committee members?

3) I only learned who was on the Evaluation/Selection Committee from the meeting video. Each of them has an issue that could open the city to liability.

a) The city attorney of North Miami is a former employee of one of the bidders. This city attorney also works for a law firm that specializes in condo law and government affairs which worked for the city (**Does their law firm still represent the city as one of the lobbyists?**). This information is on their [LinkedIn](#) and [Avvo](#) profiles.

I find it hard to believe this law firm doesn't work with any developers or condo boards in NMB. First, **does this law firm have any of these developer or condo board clients in the city?** Second, **does that law firm continue to represent the city before other agencies as one of our city's lobbyists?** I remember they used to. Isn't either being a former employee of one of the bidders or being part of a law firm that works for the city a conflict of interest?

b) The city attorney of Hallandale Beach has very little government law experience (less than 3 years). To make matters worse, only a few months ago (September) did they received their Florida Bar certification on Government Law. This information is on their [LinkedIn](#) profile.

Why didn't the city appoint more experienced, city attorneys? Or in your opinion, is this attorney experienced enough to participate? We should have done better. Our city attorney has more experience than this city attorney.

c) The private litigation attorney is **shockingly** a member of a law firm that represents the city on cases with millions in liability at stake (at least going back a few months). We are likely a million dollar plus client to them. **Isn't their law firm serving as outside counsel a direct conflict of interest?**

Budget.

Every presentation I heard would eventually cost the city much higher in legal fees.

First, if our current city attorney didn't outsource most of the department in the first place, maybe we wouldn't have to consider **formally** outsourcing the city's legal services. I think our legal budget should reflect the 2017 budget under the former city attorney: \$1,111,726 (with 6 full time employees) versus the 2019 budget: \$988,040 for 5 full-time employees (**How many full-time employees have we hired so far? I think only 2.**). Meanwhile, the proposing law firms are giving us budget proposals of \$660,000 (first place bidder) or about 70% of existing city budget for the same level of service we get now (with 1-2 full time attorneys) while continuing to outsource litigation (**how much is our city spending in litigation per year exactly?**)

In addition, how many lawsuits does the city have ongoing? I assume the city has 20 or more lawsuits ongoing which at a \$25,000 retainer each would mean a minimum litigation budget of \$600,000 per year. **Can you do the math and show that we are expected to save money through outsourcing (combining both city attorney office budget and litigation budget)?**

Second, automatic annual Cost of Living Adjustment (COLA) is prohibitively expensive. The thought that the city would agree to a contract that includes an automatic COLA breaks the bank for me. Our city does not generate the revenue at the same rate as a COLA demands. **Like our labor contracts, why can't we negotiate a flat rate and let them come back to negotiate increases in the next contract?**

Imagine the effect of a 5% COLA has on the budget:

Year 1: $\$660,000 \times 5\% = + \$33,000$

Year 2: $\$693,000 \times 5\% = + \$34,650$

Year 3: $\$727,000 \times 5\% = + \$36,383$

Year 4: $\$764,033 \dots$ this is a 15.76% increase over Year 1!

Third, there was also a question about developer fees. These law firms will keep any money paid in developer fees if nothing changes. **Why can't the city agree to an hourly rate and split the difference for the developer fees?**

I expect this city to re-do this bid or better yet, cancel and let's continue with an in-house city attorney who is willing to invest in this city and build a legal team with the city as it's only client.

When will the city provide the public a chance to see the proposed contracts? When will the city officially consider the proposed contracts? Will the public have a chance to speak?

Include my attorney Mark answer my questions and respond to my concerns and my attorney.

God bless you and our city.

Jose Rosario, Jr.

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