



**OFFICE OF THE CITY CONTROLLER
CITY OF HOUSTON
TEXAS**

RONALD C. GREEN

To: Chris B. Brown
City Controller - Elect

From: Ronald C. Green
City Controller

Date: December 22, 2015

cc: Mayor Annise Parker
City Council Members

Subject: HAS PROCUREMENT -
12-22-2015 Agenda Items
20, 21, 22, 23 & 24

As you are aware, this office has withheld certification of several agenda items related to the IAH Terminal Redevelopment Program (ITRP). The items originally appeared on the December 1 & 2, 2015 City Council Agenda as items 41, 42, 43, 44 and 45. On the December 15 & 16, 2015 Agenda, the proposed contracts were listed as items 44, 45, 46, 47 and 48. On today's Agenda, the proposed contracts are items 20, 21, 22, 23, and 24. The proposed contracts were not on the December 8 & 9, 2015 Agenda. Although on today's Agenda, the proposed items will not be certified for vote. It is my understanding these items will be presented to you, in current form, in the near future. To that end, elucidation of the position of this office is in order.

On, or about, November 21, 2015, this office received notification of potential fraud regarding the ITRP procurement process. Along with that notification, I obtained an HAS Interoffice Memorandum written by Justina Mann, HAS Chief Procurement Officer addressed to Mario Diaz, HAS Executive Director dated November 13, 2015. (See *Exhibit 1*) The memorandum clearly delineated changes in scores from the first and second rounds of the evaluation process. As you know, a change in score and vendor displacement in a two-step process, on its face, does not automatically cause this office to sustain a complaint as fraud. However, in an effort to ensure the then-upcoming request for certification of funds was in the best interest of the city, I requested, from Justina Mann, certain documents, including the original proposals for each procurement. I also informed the Operations Division of this office to hold all airport contracts for my original signature until I completed my review of the request for certification of these items. (See *Exhibit 2, page 21; email from me to Justina Mann (6:27 PM)*) It should be noted that on this date, Ms. Mann informed me the November 13th memorandum was a draft.

On November 25, 2015, the day before Thanksgiving, I received six boxes containing the submittals for each of the ITRP solicitations. According to Ms. Mann's November 13, 2015, the solicitation for Design Build Services for the ITRP Program Management Office was cancelled due to a technical lack of compliance by the MWBE firms. The solicitation is scheduled to be reissued in January 2016. On November 30, 2015, I sent Ms. Mann

an email verifying whether the information I received was true and correct. Ms. Mann confirmed the information was accurate and unaltered.

Although there were five proposed contracts presented to this office for certification, it is indisputable that I started with the proposed contract that is the most egregiously suspect and contains the biggest elephant in the room: Houston Airport System (HAS) Request for Proposal solicitation No. HGH-OCIP-2015-026 Owner Controlled Insurance Program (OCIP). The proposed awardee is Marsh USA, the employer of a sitting council member, and Borris Miles Insurance Agency is the proposed MWBE subcontractor. Based on the proposals and evaluation process, this team initially came in third place of the short listed finalists and proposed a price that was almost twice the price of the first place proposer (\$6,400,000 vs. \$3,250,577). The price was subsequently negotiated to \$5,500,000 "based on clarification of the scope of the engagement." (See Exhibit 2, page 16, Mann email to Green, 12/1/2015, 6:52 PM) I also noticed the MWBE Participation Plan that was voted upon by the evaluation committee consisted of a joint venture between Marsh USA Inc., Borris Miles Insurance Agency and Protectors Insurance and Financial Services (owned by Howard Jefferson), with a 49.98% MWBE participation rate. (See Exhibit 1) It should be noted that a 58% MWBE participation plan was presented to the Budget and Fiscal Affairs committee on November 19, 2015. (See Exhibit 3) The MWBE participation plan, as presented on today's agenda and the November 25, 2015 Memorandum from Justina Mann to Mario Diaz and distributed to Council, lists an MWBE participation plan of 31.23% and Protectors Insurance is noticeably absent. An MWBE plan that has been presented differently three times surely raises more questions than answers for this office and council members.

On December 1, 2015, I further queried Ms. Mann about the MWBE participation plan. Ms. Mann responded, "There is no joint venture mentioned in the documents provided. There is a prime, Marsh, with subcontractors. Marsh plans to honor the participation they presented. However, they disclosed during negotiation that they were reconsidering the second firm, Protectors Insurance, and they would get back to us but still honor the goal." On December 4, 2015, Mayor Parker called me to inquire whether I only had an issue with the OCIP and whether I would certify the other four contracts. I informed Mayor Parker that I had many questions regarding the underlying procurement process for all five contracts. I also asked Mayor Parker about the changes in the OCIP MWBE participation plan and why Protectors Insurance was no longer included. Mayor Parker informed me that Howard Jefferson's interest in the proposed contract had been bought by Eric Boutté and that Protectors Insurance was still part of the proposed contract. This is not reflected in the current RCA and Ms. Mann continues to conceal the same. Once again, more questions than answers surround this procurement.

Over the course of the next several days, I asked more questions regarding the OCIP contract. Ms. Mann's answers became more ambiguous and evasive. As a result, I moved on to the other four contracts. On December 11, 2015, I sent questions to Ms. Mann regarding the other four contracts (East Aircraft Parking Hardstand, A&E Design Services, Construction Management at Risk and Enabling Utilities). Once again, I

noticed several proposed vendors had moved up and down in rankings after the second round of scoring and there were several price variations between the proposals and RCAs. I also asked about preexisting relationships between evaluation team members and an individual who was a part of the Austin-Gilbane oral presentation for the proposed CMAR contract. (See *Exhibit 2, pages 3-5*) Once again, there are questions regarding these relationships and the influence they had on the evaluation process.

Clearly, there are disgruntled vendors, rumors and allegations surrounding the ITRP procurement process and this office's subsequent review of the requests for certification. In an effort to dispel those rumors and to preserve the integrity of those individuals involved in this process, pursuant to Article VIII, Section III, I have requested sworn affidavits attesting to the correctness of these requests for certification of funds. I have requested affidavits from Justina Mann, Mario Diaz, Andy Icken, Council Member Martin and Mayor Parker. (See *Exhibit 4*) In the interest of transparency, my signed affidavits are attached. (See *Exhibit 5*) As of the date of this correspondence, my affidavits are the only signed and notarized documents attesting to the accuracy of my actions. As it relates to the statements in the affidavits, yesterday I was informed by City Attorney, Donna Edmundson, that "the underlying factual bases for the statements must be verified. Given the volume of documents, there is no way to verify the information and confer with all the affiants before tomorrow's Council meeting." In all fairness Council Member Martin's affidavits were sent last Thursday, Justina Mann's were sent Friday and Mario Diaz', Andy Icken's and Mayor Parker's affidavits were sent yesterday. However, some of the affidavits are simple attestations that no laws were broken and no improper meetings or discussions occurred.

Many questions remain unanswered regarding the ITRP procurement process. The questions and responses contained in the email chain clearly raise questions regarding HAS procurement practices; hence, my reason to issue affidavits. You should know there is no shortage of employees and vendors coming forth daily to apprise this office of potential irregularities. I am sure this office will be busy in the foreseeable future investigating the same.

I hope this correspondence provides insight into the current status of today's agenda items. Please do not hesitate to contact me, if you have questions.