

BEFORE THE SCHOOL BOARD OF PINELLAS COUNTY, FLORIDA

IN THE MATTER OF:

Petition for Administrative Hearing filed by
GSL Solutions regarding Sealed Bid.
No. 14-205-127 Web Hosting Service; Content
Management System

**ORDER OF NON-COMPLIANCE WITH REQUISITE RULES
AND DISMISSING PETITION WITH LEAVE TO AMEND**

The School Board of Pinellas County, Florida ("SCHOOL BOARD"), through its chief counsel, being otherwise fully informed, hereby issues this Order containing the following Findings of Fact and Conclusions of Law after careful review of the letter of formal protest filed by GSL Solutions, Inc. ("GSL"), on March 5, 2014.

FINDINGS OF FACT

1. Rule 28-106.201, Florida Administrative Code, requires that substantially affected persons requesting a hearing pursuant to Sections 120.569 and 120.57(1) and (3), Florida Statutes, file a Petition which substantially complies with Rule 28-106.201(2), Florida Administrative Code. Rule 28-110.004, Florida Administrative Code, requires that formal written protests contain the information specified in Rule 28-106.201(2), Florida Administrative Code.

2. On March 5, 2014, GSL filed a letter of formal protest protesting the SCHOOL BOARD'S decision to award Invitation to Bid No 14-205-127 for Web Hosting Service; Content Management System to Schoolwire. A Copy of the formal protest is attached hereto as **Exhibit A**.

3. The SCHOOL BOARD is required to take agency action on a petition for hearing. If the SCHOOL BOARD accepts the petition, it may request that the Division of Administrative Hearings ("DOAH") be assigned to conduct the hearing. Before referring the petition to DOAH,

however, the petition must be reviewed and determined to be in substantial compliance with the requirements in Rule 28-106.201(2), Florida Administrative Code.

4. The letter of formal protest does not contain an explanation as to how GSL's substantial interests will be affected by the agency determination.

5. The letter of formal protest does not contain a statement of when and how the petitioner received notice of the agency decision.

6. The letter of formal protest does not contain any statements of either disputed issues of material fact or that there do not exist disputed issues of material fact. The letter of formal protest merely contains opinions of things that GSL feels that the District should have done differently.

7. The letter of formal protest references a statute that does not pertain to the SCHOOL BOARD and does not include an explanation of how the alleged facts relate to the specific rule identified.

8. GSL did not submit a bid in response to ITB 14-205-157.

CONCLUSIONS OF LAW

9. The letter of formal protest fails to comply with Rule 28-106.201(2) (b), (c), (d) and (f), Florida Administrative Code, in that:

a. The letter of formal protest does not contain an explanation as to how GSL's substantial interests will be affected by the agency determination;

b. The letter of formal protest does not contain a statement of when and how the petitioner received notice of the agency decision;

c. The letter of formal protest does not contain any statements of either disputed issues of material fact or that there do not exist disputed issues of material fact.

The letter of formal protest merely contains opinions of things that GSL feels that the District should have done differently; and

d. The letter of formal protest references a statute that does not pertain to the SCHOOL BOARD and does not include an explanation of how the alleged facts relate to the specific rule identified.

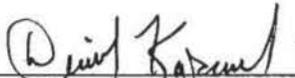
10. It is concluded from the above findings of fact that the Supplemental Petition is not in substantial compliance with the requirements of Rule 28-106.201(2). GSL will be allowed an opportunity to cure the defects.

11. GSL has failed to demonstrate standing to challenge the SCHOOL BOARD'S intent to award. GSL did not submit a bid in response to ITB 14-205-157. Without extraordinary circumstances, a non-bidder does not have standing to file a bid protest. Westinghouse Electric Corp. v. Jacksonville Transportation Authority 491 So.2d 1238 (Fla. 1st DCA 1986).

ORDER

The School Board of Pinellas County, Florida, based on the above cited Findings of Fact and Conclusions of Law, and being fully informed otherwise, **HEREBY ORDERS** that the letter of formal protest filed by GSL Solutions, Inc. on March 5, 2014, is hereby **dismissed with leave to file an amended petition by 4:00 PM on March 17, 2014 to address the above-noted deficiencies.**

DONE AND ORDERED in Largo, this 7 day of March 2014.



David Koperski
School Board Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing, with attached exhibits has been furnished by Certified Mail Return Receipt to: Michael A. Gaines, GSL Solutions, Inc., 1411 N. Westshore Boulevard, Suite 204, Tampa, FL 33607 this 7 day of March 2014.

BY: David Kopetski
David Kopetski
Florida Bar No. 0658898
School Board of Pinellas County
301 Fourth Street SW
Largo, FL 33770

All parties have the right of judicial review of this Final Order in accordance with Section 120.68, Florida Statutes. In order to appeal, a party must file a notice of appeal with Deborah Beaty, the Clerk of the School Board, 301 4th Street S.W., Largo, FL 33770, within thirty (30) days of the rendition of this order (which occurred on the date such Final Order was filed with the clerk as set forth above), and must also file a copy of the notice, accompanied by filing fees, with the Clerk of the Second District Court of Appeal, 1005 East Memorial Blvd., Lakeland, FL 33801, tel. (863) 499-2290. Review proceedings shall be conducted in accordance with the Florida Rules of Appellate Procedure, and specifically, Rule 9.110 of such Florida Rules of Appellate Procedure.



GSL Solutions

1411 N. Westshore Blvd, Suite 204
Tampa, FL 33607
(813)637-8535

Wednesday March 5, 2014

Linda Balcombe, Director of Purchasing
Purchasing Department
School Board of Pinellas County
301 Fourth Street S.W.
Largo, FL 33770-3536

RE: Formal Protest for Bid No. 14-205-127

Dear Ms. Balcombe,

The basis for this formal protest is rooted in failures in the invitation to bid to promote a fair, equitable and competitive bidding process. These failures constitute a breach of Florida law governing procurement in and out of school districts. The specific laws in question are the 2013 Florida Statutes 287.057 on Procurement of Personal Property and Services, and Rule 6A-1.012 for Purchasing Policies of the Florida Department of Education.

F.S. 287.057 (1)(a)(1)(a) states that all invitations to bid must include a detailed description of the commodities or contractual services sought. Rule 6A-1.012 (1)(b) states that the invitation to bid is to be used when the district school board is capable of specifically defining the scope of work or establishing precise specifications.

GSL's protest comes after conducting an in depth and thorough review of BID No. 14-205-127 and is based on deficiencies in adequately defining the scope of services and bid specifications. We believe that the lack of diligence in advance of this bid by the review committee compromises the integrity of the process and erodes public confidence that a fair, equitable and financially responsible process has taken place.

Deficiencies found in the Bid No. 14-205-127 process:

1. **No pre-bid conference** - A bid of this size and scope should have required a pre-bid conference to allow the evaluation committee to explain its approach and user requirements for web hosting services. This process would have allowed the committee to more effectively evaluate the qualifications, solutions and capabilities of potential vendors and result in a more representative and detailed description of services that would address the actual needs of the district.
2. **Negligent method of evaluation** - This bid is requesting a sophisticated technical solution to the complex challenge of providing all Pinellas County Schools with a complete web presence. In order to evaluate the functionality provided by the vendors who supplied responses, detailed descriptions of their solutions and how they would handle specific user scenarios would be required. However, the actual RFP only contained simple YES/NO questions as the sole means of evaluating prospective service providers.

EXHIBIT

A

www.gslsolutions.com

The process of evaluating a new website design and hosted content system strictly through a simple point system creates the appearance of one of two scenarios: a lack of diligence on the part of the evaluation team or constructing the invitation to bid to steer selection toward a particular vendor.

3. **Lack of presentation by qualified vendors** - Entering into a five-year agreement with a stated contract value of more than \$600,000 without the benefit of a formal presentation and demonstration of services by qualified bidders is a dereliction of responsibility. Committee members should have been afforded the opportunity to follow up on the proposals provided by the potential vendors to get an accurate representation of how the solution addresses the district's specific needs.
4. **Rush to award bid** - The evaluation period between the public bid opening and final award for this bid was less than three business days. The bids were opened at 3 p.m. on Thursday, February 13th and the selection was made on Monday, February 17th.

Without a pre-conference or formal presentation by the vendors, the committee members could not have had enough time to thoroughly evaluate materials or vendors beyond the point totals provided in the bid evaluation. This is further evidence of a lack of diligence in the process.

CONCLUSION

GSL requests the Pinellas County School Board reject all bids for this RFP. The process we detailed and challenged in the sections above reflects a poorly conceived, rushed and superficial process that inevitably led to a suboptimal result. Rejecting all bids will allow the district time to conduct a more thorough evaluation of their specific web hosting requirements and provide for a more complete evaluation of prospective vendor solutions; solutions that actually meet the needs of the district.

It is imperative that the district school board and superintendent exercise their oversight authority to ensure that services recommended by the committee have been properly vetted and meet the standards and specifications required to meet the specific needs of the school district. In regards to Bid No. 14-205-127, it is our conclusion that this process does not meet these standards and needs to be rejected.

Regards,



Michael A. Gaines, President
GSL Solutions, Inc.