March 1, 2013

Mr. Mitchell Bierman, P.A.
Weiss Serota Helfman
Pastoriza Cole & Boniske, P.L.
200 East Broward Boulevard
Suite 1900
Fort Lauderdale, FL 33301

Re: Request for Proposal (RFP) No: R1043206P1, Parking Management Services for Fort Lauderdale-Hollywood International Airport Public and Employee Parking Facilities

Dear Mr. Bierman:

We are in receipt of your objection letters dated January 29, 2013 and February 13, 2013 written on behalf of your client, Ampco System Parking d/b/a ABM Parking Services, second-ranked proposer for RFP R1043206P1, Parking Management Services for Fort Lauderdale-Hollywood International Airport Public and Employee Parking Facilities.

In your letter, you objected to the Evaluation Committee’s ranking determination and suggested a number of possible remedies. Your letters are identical with the exception of the dates on Page 1 and Page 2 of the letters.

In my review of the Evaluation Committee documents and record of the Evaluation Committee meetings, I find that the Evaluation Committee process was followed appropriately and without deviation. I can find no evidence that “the evaluation was conducted erroneously and contrary to the process outlined in the RFP” as you alleged in your letter. I therefore find no merit in your objection and cannot recommend any of your suggested remedies. Following distribution of this response to your firm, the County will post the final recommendation of ranking and proceed with a Board Agenda item for approval of the ranking order as determined in the January 24, 2013 Evaluation Committee Meeting.

In the following paragraphs, I will respond to your individual assertions, point by point.

Assertion No. 1: Your letter indicates that you made a public records request on Friday January 25, 2013, which was completed on Monday January 28, 2013, by Purchasing Division staff. You stated “Consequently, ABM hereby reserves its right to supplement this letter with additional arguments and materials once we have had the opportunity to thoroughly review the responsive documents to our public records request.”
In your letter of February 13, 2013, you indicated that you filed a public records request for the audio recording of the Evaluation Committee Meeting of January 24, 2013 and asked for the same opportunity to supplement your February 13, 2013 letter.

Response No. 1: Purchasing Division staff completed your public records request within one business day on January 28, 2013 and completed your February 12, 2013 public records request within one day on February 13, 2013. This is an acceptable level of service for public records requests. In accordance with Broward County Procurement Code Section 21.84.f, the Objection Letter must be submitted in its entirety within three business days of the posted recommendation of ranking without possibility of later supplement. Your Objection letters dated January 29, 2013 and February 13, 2013 cannot be further supplemented at a later date.

Assertion No. 2: Your letter asserts that “Pricing and cost information was impermissibly inserted into the Standard Parking presentation thereby allowing those considerations to affect the EC’s evaluation of the qualitative criteria.”

Response No. 2: While the RFP solicitation document gives instruction about completion of the Price Sheet, these instructions do not preclude the mention of a proposer’s price in their scheduled presentation. Presentations, while they must include specific items or issues which the Evaluation Committee or project staff have specifically requested, do not preclude inclusion of other items which the proposer may believe provides the Evaluation Committee with a better understanding of their proposed service. Proposers must not exceed their allotted time for presentation but, within that time period, proposers are granted wide latitude for what can be presented to increase the understanding of Evaluation Committee members about the proposer’s service.

Price was not, therefore, “impermissibly inserted into the Standard Parking presentation” as you have stated.

Assertion No. 3: Your letter asserts that “the financial information presented to the EC was incomplete and thus created an inaccurate picture of the two proposals”.

Response No. 3: In researching your assertion, I have reviewed both the financial information history documents and the price sheet documents in the Standard Parking Proposal, since you use the words “financial information” without specifying which documents you are alleging are “incomplete”. My review of both the financial information history documents, as well as the price sheet documents in the Standard Parking proposal indicate that both sets of documents are complete. There is no missing information or omissions which occasioned follow-up or clarification. The price sheet documents were evaluated and scored based on the prices given. Since these prices were the lowest prices proposed, Standard Parking received the full 20 evaluation scoring points according to a mathematical formula. That mathematical formula had been published in the RFP solicitation document as a matter of public record. Standard Parking will be expected to stand behind their published prices during negotiations and to affirm those prices in the final Agreement with Broward County.
Assertion No. 4: “The budgets provided by Standard in its proposal indicate that it proposes to lower costs in part by completely eliminating positions currently held by management and supervisory personnel. ABM’s experience is that such cuts have a direct and immediate effect on quality and customer satisfaction and will ultimately result in lower revenues, especially in an environment where BCAD is competing with lower priced off-airport options.”

Response No. 4: The assertion that “eliminating management and supervisory positions will negatively impact customer service and revenue” is not supported by data and is therefore only supposition. Unless supported by data, this supposition does not constitute new information for the Evaluation Committee.

 Assertion No. 5: “The RFP required proposers to prepare a detailed ACDBE participation plan and submit the plan and required forms, which require a listing of ACDBE firms and provide for certain certifications to be made by the proposer, to the Count by the submittal deadline. However, it is our understanding that, during its presentation, Standard may have introduced a new proposed ACDBE participant to the EC that was not included within Standard’s proposal or on the required ACDBE forms. The ACDBE firm representative was then permitted to present information to the EC on the services his firm provides. It also further prejudices ABM because Standard was permitted to modify its proposal after the submittal deadline and contrary to the terms of the RFP”.

Response No. 5: The Airport Concession Disadvantaged Business Enterprise (ACDBE) subcontractor, Pacific Park Management, which Standard Parking Corporation submitted in its RFP proposal is in compliance with the 20% ACDBE participation goal, and remains unchanged. In its presentation before the Evaluation Committee, Standard Parking Corporation introduced Pacific Park Management to share the presentation. It is common practice to introduce subcontractors who will be participating and sharing in a presentation to Evaluation Committees.

Prior to closing the presentation, Standard Parking Corporation acknowledged the presence, in the room, of another potential subcontractor which would also be working with their team. This subcontractor did not speak during the presentation.

The 20% ACDBE participation goal to which Standard Parking Corporation evidenced compliance by Pacific Park Management as part of its proposed team, did not change. The ACDBE-certified subcontractor named in the Proposal participated in the presentation.

Standard Parking Corporation did not and was not “permitted to modify its proposal after the submittal deadline”. The statements in your letter are not correct.
In conclusion, the RFP and Evaluation Committee process were followed without deviation. I do not find merit in the assertions described in your January 29, 2013 or February 13, 2013 objection letters and cannot therefore recommend the remedies you have suggested.

Please let me know if you have any questions.

Sincerely,

Brenda J. Billingsley, Director
Purchasing Division

Attachment

BJB/kw/hmm

c: Glenn Marcos, Assistant Director, Purchasing Division
    Glenn Miller, Assistant County Attorney, County Attorney's Office
    Robert Teitler, Assistant County Attorney, County Attorney's Office
    Kevin Wu, Airport Manager, Aviation Department
January 29, 2013

VIA E-MAIL & HAND-DELIVERY

Brenda J. Billingsley, Director
Broward County Purchasing Division
115 Andrews Avenue,
Fort Lauderdale, Florida 33301

RE: RFP No. R1043206P1, Parking Management Services for Fort Lauderdale-Hollywood International Airport Public and Employee Parking Facilities ("RFP") "3-Day Letter"

Dear Ms. Billingsley:

We represent Ampco System Parking, Inc. d/b/a ABM Parking Services ("ABM"), a responsive and responsible respondent to the above referenced RFP. We write pursuant to Broward County Purchasing Code, section 21.84(f), to object to the evaluation committee’s ("EC") ranking of firms posted on January 24, 2013.

The evaluation was conducted erroneously and contrary to the process outlined in the RFP. Moreover, the county may have received incomplete information regarding the financial and cost information for the two firms and that the information unfairly affected the EC’s evaluation of all of the non-quantitative factors. This information and the integrity of the procurement process is critical for Broward County to make an informed decision regarding the provision of essential parking services that significantly impact the County’s most valuable transit asset, the Fort Lauderdale-Hollywood International Airport.
Access to Public Records

As a threshold matter, on Friday January 25, 2013, at 11:15 a.m., the undersigned attorney filed the attached public records request (exh. 1) seeking documents that are critical to ABM’s ability to file this 3 day letter. Receipt of the public record request was initially acknowledged by a county employee on Saturday, January 26, 2013, and the intended recipient acknowledged receipt of the public record request on Monday, January 28. We did not receive the responsive documents until the afternoon of January 28, which is the day before this 3 day letter is was due. Consequently, ABM hereby reserves its right to supplement this letter with additional arguments and materials once we have had the opportunity to thoroughly review the responsive documents to our public records request.

The EC Was Impermissibly Provided With Pricing Information Which Influenced the Evaluation of Qualitative Criteria

Pricing and cost information was impermissibly inserted into the Standard Parking (“Standard”) presentation thereby allowing those considerations to affect the EC’s evaluation of the qualitative criteria. The RFP provided specific instructions on how cost information and the pricing proposal was to be submitted in response to the RFP with the goal of keeping those considerations separate from the evaluation of the other factors. The Price Sheet instructions were set forth in Attachment “U”, which provided that the “Cost-pricing proposal must be submitted using the posted excel spreadsheet.” Upon entering the data and saving the spreadsheet, the spreadsheet automatically performed calculations to determine price. Pursuant to the evaluation criteria section of the RFP, the Management Fee and Reimbursable Expenses component (price) was worth 20 points and was to be calculated solely by county staff, not the EC.

Accordingly, any discussion of price and cost during the oral presentations could only serve to influence the EC to consider those factors in their evaluation, which is clearly outside their purview. The EC was supposed to evaluate only the qualitative factors, without regard to pricing. Indeed, the RFP states that the oral presentations to the EC were to focus “on the firm’s approach to this project and the firm’s ability to perform.” Discussion of the price proposal as part of the presentation is contrary to the instructions in the RFP. The proposers were to submit their price proposal and cost information separately utilizing the excel spreadsheets posted by the county and the oral presentation was to be limited to each firm’s approach to the project and each firm’s ability to perform the requested services. Despite these instructions, Standard’s presentation included a title slide labeled “Management Fee and Reimbursable Expenses.” (See slide 50 of 52) followed by a slide that purported to show a “financial comparison” of the
proposers (See slide 51 of 52). The “financial comparison” alleged that Standard’s proposal provided a $4.1 million dollar savings over ABM’s proposal. The reference to “$4.1 million savings” was formatted in large font, bolded and italicized to further emphasize to the EC the alleged savings the county would experience if it selected Standard. Not only did Standard Parking present this argument to the EC, but it was presented at the closing of the presentation. Thus, Standard’s $4.1 million savings claim was fresh in the minds of the EC members when they made their evaluations of the substantive, qualitative criteria. This had the effect of contaminating the evaluation of those criteria with consideration of price and was prejudicial to ABM.1

The EC’s Consideration of the Financial Issues Was Skewed by Incomplete Information Which May Have Misled the EC

To make matters worse, the financial information presented to the EC was incomplete and thus created an inaccurate picture of the two proposals. In fact, of all of the cost information presented, the only objective factor and the only cost item that is not ultimately in the county’s control is the management fee. ABM’s management fees are actually lower than Standard’s by more than $400,000 over the 5 year contract period. Accordingly, on the only cost factor capable of an apples to apples comparison, ABM should have received the higher score for price. Every other item of cost information is ultimately controlled by the county and is subject to negotiations between the county and the successful vendor.

Of course, lower cost of operation is only one factor in the more important issue of overall profitability and return of revenues to the county. As shown further below, incomplete information led further confusion by the EC. For example, rather than include the entire credit card discount fee as an operating expense, Standard appears to have used a portion of that expense as an adjustment to revenue. This is the only plausible explanation as to why Standard’s line item for credit card discount fees is lower than ABM’s by $200,000 in year one. There are some slight differences in the fees vendors pay to credit card companies, but they cannot explain such a wide divergence. Otherwise, it appears that Standard is way understating the percentage of credit card use, which in ABM’s experience exceeds 70% of customer transactions.

It also appears that Standard has reduced the actual operating expense by including car wash revenue as an operating credit. The portion of such revenues that would be given to the county was shown as a credit to Standard’s expenses rather than treating it as a revenue line item for the county. We believe that our proforma reflected the revenues and expenses in accordance with the sample contract provisions set forth in the RFP. That alone would not have overcome the point differential of the ranking by one EC member (the Chair). However, the overall effect
of the incomplete information combined with the other RFP deviations presented in this letter and ABM’s lack of a reasonable opportunity to present clarification information on the financials had a substantial likelihood of negatively impacting the evaluation process. The negative impacts to the evaluation are particularly troubling because ABM received a higher qualification (non-price) score from 2 of the 5 evaluators on the EC.

Lowering Costs by Eliminating Management and Supervisory Positions Will Negatively Impact Customer Service and Revenue

The budgets provided by Standard in its proposal indicate that it proposes to lower costs in part by completely eliminating positions currently held by management and supervisory personnel. ABM’s experience is that such cuts have a direct and immediate effect on quality and customer satisfaction and will ultimately result in overall lower revenues, especially in an environment where BCAD is competing with lower priced off-airport options. ABM’s proposal does not sacrifice high quality control and customer service standards, which are typically significantly impacted upon the elimination of management and supervisory staff.

Standard’s Presentation Included Additional Qualifications and ACDBE Partners that Were Not Included in Standard’s Proposal

The RFP required proposers to prepare a detailed ACDBE participation plan and submit the plan and required forms, which require a listing of ACDBE firms and provide for certain certifications to be made by the proposer, to the County by the submittal deadline. However, it is our understanding that, during its presentation, Standard may have introduced a new proposed ABDCE participant to the EC that was not included within Standard’s proposal or on the required ACDBE forms. The ACDBE firm representative was then permitted to present information to the EC on the services his firm provides. If this is true, then it represents another violation of what we understand to be the RFP requirements. It also further prejudices ABM because Standard was permitted to modify its proposal after the submittal deadline and contrary to the terms of the RFP. Consequently, the EC may have scored Standard’s proposal based on qualifications and considerations that were not included in Standard’s proposal, and without the certifications and attestations that were required by the RFP for use of ACDBE firms.

Attestation and Acknowledgement

As required by Broward County Purchasing Code, section 21.84(f), ABM states that all statements made herein in support of these objections are accurate, true and correct to the best of
best of our knowledge, and we acknowledge that a contrary determination may be grounds for debarment.

**Conclusion**

We respectfully submit that the stated RFP process was not followed and both the presentations and the proposals themselves were not evaluated in the manner contemplated in the RFP. We request that the county administrator or the county commission take the following steps to remedy the RFP process: 1) reconstitute the EC with a new panel and direct that the evaluation process be redone de novo with careful consideration given to each of the evaluation criteria; 2) require EC members to clearly articulate the basis for their rankings; 3) conduct new presentations in a fair and equitable manner with the evaluators observing a uniform process for evaluating the presentations; and 4) seek relevant information from all proposers regarding their cost assumptions and how they impact gross revenues and consider this information in the evaluations.

Very truly yours,

Mitchell A. Bierman  
Anthony C. Soroka

MAB/msr  
2420.001  
Enclosures  
cc: Joni Armstrong Coffey, County Attorney  
   Bertha Henry, County Administrator  
   Scott Hutchinson, ABM Parking Services  
   Evan Lukic, County Auditor

---

1 After Standard's presentation, ABM had no choice but to also discuss price and costs, but did not have adequate time to prepare a complete response to Standard's assertion.
Can we get copies of any documents Standard distributed and Standard’s power point printout. Also, please send me the evaluation matrix that was distributed at the first Selection Committee meeting. I do not have it handy.
February 13, 2013

VIA E-MAIL & HAND-DELIVERY

Brenda J. Billingsley, Director
Broward County Purchasing Division
115 Andrews Avenue,
Fort Lauderdale, Florida 33301

RE: RFP No. R1043206P1, Parking Management Services for Fort Lauderdale-Hollywood International Airport Public and Employee Parking Facilities ("RFP") "3-Day Letter"

Dear Ms. Billingsley:

We represent Ampco System Parking, Inc. d/b/a ABM Parking Services ("ABM"), a responsive and responsible respondent to the above referenced RFP. We write pursuant to Broward County Purchasing Code, section 21.84(f), to object to the evaluation committee’s ("EC") ranking of firms posted on February 8, 2013.

The evaluation was conducted erroneously and contrary to the process outlined in the RFP. Moreover, the county may have received incomplete information regarding the financial and cost information for the two firms and that the information unfairly affected the EC’s evaluation of all of the non-quantitative factors. This information and the integrity of the procurement process is critical for Broward County to make an informed decision regarding the provision of essential parking services that significantly impact the County’s most valuable transit asset, the Fort Lauderdale-Hollywood International Airport.
Access to Public Records

As a threshold matter, on Tuesday, February 12, 2013, at 11:23 a.m., the undersigned attorney filed the attached public records request (exh. 1) seeking audio recordings of the January 24, 2013 Evaluation Meeting, which may provide an additional basis and/or additional support for ABM’s objections contained within this 3 day letter. As of the date of this correspondence, we have not yet received the requested audio recordings. Consequently, ABM hereby reserves its right to supplement this letter with additional arguments and materials once we have had the opportunity to thoroughly review the responsive audio recordings to our public records request.

The EC Was Impermissibly Provided With Pricing Information Which Influenced the Evaluation of Qualitative Criteria

Pricing and cost information was impermissibly inserted into the Standard Parking (“Standard”) presentation thereby allowing those considerations to affect the EC’s evaluation of the qualitative criteria. The RFP provided specific instructions on how cost information and the pricing proposal was to be submitted in response to the RFP with the goal of keeping those considerations separate from the evaluation of the other factors. The Price Sheet instructions were set forth in Attachment “U”, which provided that the “Cost-pricing proposal must be submitted using the posted excel spreadsheet.” Upon entering the data and saving the spreadsheet, the spreadsheet automatically performed calculations to determine price. Pursuant to the evaluation criteria section of the RFP, the Management Fee and Reimbursable Expenses component (price) was worth 20 points and was to be calculated solely by county staff, not the EC.

Accordingly, any discussion of price and cost during the oral presentations could only serve to influence the EC to consider those factors in their evaluation, which is clearly outside their purview. The EC was supposed to evaluate only the qualitative factors, without regard to pricing. Indeed, the RFP states that the oral presentations to the EC were to focus “on the firm’s approach to this project and the firm’s ability to perform.” Discussion of the price proposal as part of the presentation is contrary to the instructions in the RFP. The proposers were to submit their price proposal and cost information separately utilizing the excel spreadsheets posted by the county and the oral presentation was to be limited to each firm’s approach to the project and each firm’s ability to perform the requested services. Despite these instructions, Standard’s presentation included a title slide labeled “Management Fee and Reimbursable Expenses,” (See slide 50 of 52) followed by a slide that purported to show a “financial comparison” of the proposers (See slide 51 of 52). The “financial comparison” alleged that Standard’s proposal
provided a $4.1 million dollar savings over ABM’s proposal. The reference to “$4.1 million savings” was formatted in large font, bolded and italicized to further emphasize to the EC the alleged savings the county would experience if it selected Standard. Not only did Standard Parking present this argument to the EC, but it was presented at the closing of the presentation. Thus, Standard’s $4.1 million savings claim was fresh in the minds of the EC members when they made their evaluations of the substantive, qualitative criteria. This had the effect of contaminating the evaluation of those criteria with consideration of price and was prejudicial to ABM.\textsuperscript{i}

The EC’s Consideration of the Financial Issues Was Skewed by Incomplete Information Which May Have Misled the EC

To make matters worse, the financial information presented to the EC was incomplete and thus created an inaccurate picture of the two proposals. In fact, of all of the cost information presented, the only objective factor and the only cost item that is not ultimately in the county’s control is the management fee. ABM’s management fees are actually lower than Standard’s by more than $400,000 over the 5 year contract period. Accordingly, on the only cost factor capable of an apples to apples comparison, ABM should have received the higher score for price. Every other item of cost information is ultimately controlled by the county and is subject to negotiations between the county and the successful vendor.

Of course, lower cost of operation is only one factor in the more important issue of overall profitability and return of revenues to the county. As shown further below, incomplete information led further confusion by the EC. For example, rather than include the entire credit card discount fee as an operating expense, Standard appears to have used a portion of that expense as an adjustment to revenue. This is the only plausible explanation as to why Standard’s line item for credit card discount fees is lower than ABM’s by $200,000 in year one. There are some slight differences in the fees vendors pay to credit card companies, but they cannot explain such a wide divergence. Otherwise, it appears that Standard is way understating the percentage of credit card use, which in ABM’s experience exceeds 70% of customer transactions.

It also appears that Standard has reduced the actual operating expense by including car wash revenue as an operating credit. The portion of such revenues that would be given to the county was shown as a credit to Standard’s expenses rather than treating it as a revenue line item for the county. We believe that our proforma reflected the revenues and expenses in accordance with the sample contract provisions set forth in the RFP. That alone would not have overcome the point differential of the ranking by one EC member (the Chair). However, the overall effect of the incomplete information combined with the other RFP deviations presented in this letter
and ABM’s lack of a reasonable opportunity to present clarification information on the financials had a substantial likelihood of negatively impacting the evaluation process. The negative impacts to the evaluation are particularly troubling because ABM received a higher qualification (non-price) score from 2 of the 5 evaluators on the EC.

**Lowering Costs by Eliminating Management and Supervisory Positions Will Negatively Impact Customer Service and Revenue**

The budgets provided by Standard in its proposal indicate that it proposes to lower costs in part by completely eliminating positions currently held by management and supervisory personnel. ABM’s experience is that such cuts have a direct and immediate effect on quality and customer satisfaction and will ultimately result in overall lower revenues, especially in an environment where BCAD is competing with lower priced off-airport options. ABM’s proposal does not sacrifice high quality control and customer service standards, which are typically significantly impacted upon the elimination of management and supervisory staff.

**Standard’s Presentation Included Additional Qualifications and ACDBE Partners that Were Not Included in Standard’s Proposal**

The RFP required proposers to prepare a detailed ACDBE participation plan and submit the plan and required forms, which require a listing of ACDBE firms and provide for certain certifications to be made by the proposer, to the County by the submittal deadline. However, it is our understanding that, during its presentation, Standard may have introduced a new proposed ABDCE participant to the EC that was not included within Standard’s proposal or on the required ACDBE forms. The ACDBE firm representative was then permitted to present information to the EC on the services his firm provides. If this is true, then it represents another violation of what we understand to be the RFP requirements. It also further prejudices ABM because Standard was permitted to modify its proposal after the submittal deadline and contrary to the terms of the RFP. Consequently, the EC may have scored Standard’s proposal based on qualifications and considerations that were not included in Standard’s proposal, and without the certifications and attestations that were required by the RFP for use of ACDBE firms.

**Attestation and Acknowledgement**

As required by Broward County Purchasing Code, section 21.84(f), ABM states that all statements made herein in support of these objections are accurate, true and correct to the best of our knowledge, and we acknowledge that a contrary determination may be grounds for debarment.
Conclusion

We respectfully submit that the stated RFP process was not followed and both the presentations and the proposals themselves were not evaluated in the manner contemplated in the RFP. We request that the county administrator or the county commission take the following steps to remedy the RFP process: 1) reconstitute the EC with a new panel and direct that the evaluation process be redone de novo with careful consideration given to each of the evaluation criteria; 2) require EC members to clearly articulate the basis for their rankings; 3) conduct new presentations in a fair and equitable manner with the evaluators observing a uniform process for evaluating the presentations; and 4) seek relevant information from all proposers regarding their cost assumptions and how they impact gross revenues and consider this information in the evaluations.

Very truly yours,

Mitchell A. Bierman
Anthony C. Soroka

MAB/msr
2420.001
Enclosures
cc: Joni Armstrong Coffey, County Attorney
    Bertha Henry, County Administrator
    Scott Hutchinson, ABM Parking Services
    Evan Lukic, County Auditor

\^ After Standard's presentation, ABM had no choice but to also discuss price and costs, but did not have adequate time to prepare a complete response to Standard's assertion.
In accordance with Chapter 119, Florida Statutes, I request a copy of the audio recording(s) from the January 24, 2013 Evaluation Committee Meeting for the above referenced RFP, including the audio recordings of the presentations made before the Evaluation Committee by the Proposers.

Please let me know as soon as possible when the audio recording(s) are available and we will arrange for immediate pickup (and payment if required).

Feel free to contact me with any questions.

Thank you in advance for your assistance.

Anthony Soroka