



Brevard County Board of County Commissioners

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Legislation Text

File #: 2433, **Version:** 1

Subject:

Recommended Award of B-5-21-11: Petroleum Products - Lube Oil - Protest Received from Watkins Oil

Fiscal Impact:

- Intended Award to Seaboard Distribution as Primary - All Lines Except Line 45 - \$136,270.82 Annually (estimated based on quantities)
 - o Intended Award to Seaboard Distribution as Secondary Vendor for Line 45, Blue DEF 330 Gallon Tote
- Intended Award to Watkins Oil as Primary for only Line 45 Blue DEF 330 Gallon Tote - \$12,936 Annually (estimated based on quantities)
 - o Intended Award to Watkins Oil as Secondary for All Other Line Items

Dept/Office:

Central Services / Purchasing Services

Requested Action:

It is requested that the Board of County Commissioners, after considering the protest from Watkins Oil:

1. Accept the recommendation to make award of Brevard County Petroleum Products - Lube Oil to Seaboard Distribution as the primary vendor for all line items except line 45, Blue DEF 330 Gallon Tote, which would be awarded to Watkins Oil as Primary with Watkins Oil being awarded all other line items as Secondary Vendor; or
2. Recommendation of rejection of all bids received and re-advertisement by Purchasing Services; or
3. Provide other direction to award, as determined acceptable by the Board.

Summary Explanation and Background:

On October 8, 2020, Purchasing Services advertised Invitation to Bid B-5-21-11: Petroleum Products - Lube Oil to solicit bids for the procurement of petroleum, oil, and lubricants to be delivered to Central Fleet, Solid Waste, Mosquito Control and Road & Bridge locations on a monthly basis along a service route and on an as requested basis. This action was approved by the Board on August 4, 2020 via approval of the Fiscal Year 2021 Permission to Issue Annual Supply, Bids, Quotes and Proposal Listing included in Board Agenda Item F.14.

On December 4, 2020, Purchasing Services opened the five (5) responses received and posted a bid tabulation indicating submissions were under review. Bids were received from Seaboard Distribution of Lakeland, FL; Watkins Oil of Titusville, FL; Lubrication Engineers, Inc. of Fort Worth, Texas. Statements of no bid were received from Gate Fuel Services, Inc. of Jacksonville, FL and Driveways, Inc. of Titusville, FL.

On December 21, 2020, Purchasing Services posted a bid tabulation indicating notice of intended award of all items (51 total line items) to Seaboard Distribution as Primary vendor for this service, and Watkins Oil as Secondary vendor for this service. It should be noted that Watkins Oil is the current vendor of this service.

This decision was made after Purchasing Services met extensively with user departments to review product specifications and conduct line item analysis. Seaboard Distribution's bid submission of house brand and topline brand oils compared to Watkins Oil's submission of same were found to be lower in price by an estimated annual amount of \$35,776.20. Lubrication Engineer's pricing was substantially higher than both Seaboard Distribution and Watkins Oil on all items. Lubrication Engineers was not recommended award of any items.

On December 30, 2020, Purchasing Services received via email from Watkins Oil a timely notice of protest in accordance with Board Policy, BCC-25 Procurement. Watkins indicated five (5) areas of dispute regarding the intended award of B-5-21-11. A copy of Watkins Oil Protest Letter is attached to this Agenda Item. The five (5) main points of Watkins Oil protest were:

1. Seaboard Distribution did not properly label the price sheet, as requested.
2. Seaboard Distribution did not provide two separate price sheets as requested.
3. Watkins "House Brand" products were not approved, yet they are the same "House Brand" products submitted by Seaboard Distribution.
4. Only two (2) "House Brand" items were submitted for two (2) types of oil, and if those are mixed with Premium Brands, vehicle manufacturer warranties would be void.
5. The County's estimated quantity on Line Item 45, Blue DEF 330 Gallon Tote was significantly underestimated based on previous years quantities, and as such, award of this line item to Watkins Oil could potentially save the County approximately \$13,000 per year, for a total of \$65,000 over a period of five (5) years, should this contract be renewed for the additional four (4) terms, each one (1) year in length.

On January 5, 2021, Purchasing Services responded to Watkins Oil via email with an itemized response addressing each of Watkins Oil concerns. A copy of the County's Response Letter is attached to this Agenda Item. A brief synopsis of the County's responses are as follows:

1. The price sheet, as submitted, by Seaboard Distribution, while not titled correctly, clearly identified Brands of product, which is easily interpreted by staff as either House Brand or Premium Brand.
2. The County maintains the right to accept bids with administrative errors (errors that do not materially affect price), via the terms and conditions included in the Invitation to Bid solicitation. While it was requested that bidders submit two separate price sheets, the County was able to do a thorough Price Analysis with the spreadsheet provided by Seaboard Distribution.
3. The County agreed with Watkins Oil that the House Brands submitted by Watkins Oil were the same as those submitted by Seaboard Distribution and as such, would amend the Notice of Award to state that these House Brands are approved as acceptable by the County.
4. There was no requirement in the bid that potential vendors price all line items. County Staff that will utilize this contract are familiar with Manufacturer warranties and this was a non-issue relative to the intended award of this service to Seaboard Distribution.

5. The County acknowledged that Watkins Oil submitted a lower price on this line item, however, an overall annual cost analysis showed that awarding of all line items to a Seaboard would still be cost effective to the County. The discrepancy with the estimated quantities was noted.

The letter requested that Watkins Oil consider the responses provided by the County and provided Watkins Oil the opportunity to either withdraw their protest or request the formal protest be heard before a protest committee, in accordance with Policy. Watkins Oil responded that they did not accept the County's initial response and as such, would like the protest to be heard by a protest committee.

On January 12, 2021, a formal Protest Committee was appointed by the County Manager and convened in accordance with Policy to review the protest received by Watkins Oil. The appointed committee consisted of Jim Liesenfelt, Assistant County Manager; Gerard Visco, Human Resources Director; and Ian Golden, Housing & Human Services Director. A public meeting notice was posted on January 7, 2021 prior to the meeting. Gerard Visco was appointed the Chair of the Committee via a motion made by Ian Golden and seconded by Jim Liesenfelt. Watkins Oil attended the meeting and discussion was held by the committee in their review as well as discussion with Watkins Oil regarding their concerns.

The purpose of the Protest Committee is to determine if procurement policy was followed during the solicitation period. Central Services and the County Attorney's Office were in attendance during the protest committee. The committee heard each concern Watkins Oil had with the procurement of Petroleum Products - Lube Oil and agreed that policy was followed and that the protest was not substantiated. After reviewing the complaints made by Watkins Oil, discussing the issues with Watkins during the committee and the responses (both written and verbal) provided by Purchasing Services; Ian Golden made a motion to accept the recommendation from Purchasing Services to Award all line items to Seaboard Distribution as the Primary Vendor and award all line items to Watkins Oil as the secondary vendor. This motion was seconded by Jim Liesenfelt and passed unanimously.

Before the conclusion of the committee, Watkins Oil was asked to formally notify the Central Services Director within 48 hours whether or not they accept the outcome of the protest committee. Policy states:

"In the event the matter is not resolved with the Protestor's acceptance of the Protest Committee's decision, the Central Services Director will schedule the recommended award including the details of the protest and the Protest Committee's recommendation before the Board of County Commissioner via Board Agenda. The County Manager, prior to approval and placement on the Board agenda, may elect to resolve the matter before presentation to the Board. In the event that the County Manager cannot bring the matter to resolution, a copy of the Agenda Report shall be furnished immediately to all affected parties. The affected parties may appear before the Board of County Commissioners as a final means of administrative remedy."

On January 13, 2021, Watkins Oil advised via email to Purchasing Services that they did not accept the Protest Committee's decision and wished to appear before the Brevard County Board of County Commissioners to seek a final means of remedy in requesting a revision of intended award for B-5-21-11: Petroleum Products - Lube Oil.

On January 13, 2021, the County Manager directed Purchasing Services to revise the intended award of this Invitation to Bid, awarding Watkins Oil as the primary vendor of Line Item 45, Blue DEF 330 gallon tote and

secondary vendor of all line items and award Seaboard Distribution as the primary vendor for all line items except line 45, with Seaboard being awarded as the secondary vendor of line item 45, Blue DEF 330 Gallon Tote.

Clerk to the Board Instructions:

None