



DATE: February 06, 2017

TO: THE DISTRICT BOARD OF TRUSTEES
of VALENCIA COLLEGE

FROM: SANFORD C. SHUGART
President

RE: ITN# 2016-80, SPECIAL PAY PLAN, 457 VOLUNTARY PLAN, AND FICA ALTERNATIVE
PLAN SERVICES, APPEAL OF DECISION, BENCOR PROTEST OF RECOMMENDED
AWARD

On May 20, 2016, the College issued an Invitation to Negotiate, ITN 2016-80, for Special Pay Plan, 457 Voluntary Plan, and FICA Alternative Plan Services (Retirement plans administration). The College intentionally chose to employ the invitation to negotiate method of competitive solicitation, given its distinctive features which allowed the College to more effectively discern the best value offered by the respondents for these services.

The Special Pay Plans are used to deposit accumulated sick and/or vacation leave, retirement incentive pay, or other incentive payments on behalf of all eligible employees. The 457 Voluntary Plans are available to all eligible employees. The Alternative Plan, also known as the 401(a) FICA Alternative Plan is mandatory for part time and seasonal employees in lieu of participating and contributing to Social Security.

Seven (7) firms submitted replies:

1. BENCOR
2. Mid America
3. Life Insurance Company of the Southwest, dba Nation Life Group
4. TCG Administrators
5. TSA Consulting Group, Inc.
6. VALIC
7. Voya Retirement Insurance and Annuity Company

The initial evaluation committee meeting was held on July 20, 2016, to review and shortlist the Respondent's replies. The consultant and subject matter expert from Mercer, a Marsh & McLennan consulting services company, provided a side-by-side comparison for the evaluation committee. The evaluation committee selected, in rank order, Voya, VALIC, and then BENCOR as the top ranked firms to proceed to the negotiation phase and the notice of intended action was publicly posted.

Discussions and negotiations were held August 17, 2016 with the top ranked Respondents. Formal best and final offers were extended by each Respondent. The negotiation team (comprised differently from the initial evaluation committee) met on September 6, 2016 to review the best and final offers. After careful consideration, the negotiation team selected VALIC as the firm providing the overall best value to the College, with Voya ranked second, and BENCOR ranked last.

In accordance with Valencia's internal Protest and Contract Dispute Procedures ("Procedures"), on September 13, 2016 (supplemented on September 14 and again on September 26, 2016) BENCOR appealed this notice of intended decision to the Director of Procurement, citing grounds including lack of responsiveness of the VALIC

response; mathematical errors in the evaluation scoring sheets; inclusion of optional services and other services in scoring and award decisions contrary to ITN; deficiencies and confusion on the part of the Evaluation Committee and the College's consultant in evaluating and calculating pricing matters and the assessment of fees; and treatment of public records requests.

On October 18, 2016, the Director of Procurement issued a decision letter denying BENCOR's protest and upholding the College's intended decision to award the contract to VALIC.

On October 25, 2016, in accordance with the Procedures, BENCOR appealed the decision of the Director of Procurement to the Vice President, Business Operations and Finance, essentially citing the same grounds for appeal as previously expressed.

On December 9, 2016, the Vice President, Business Operations and Finance issued a decision letter denying BENCOR's appeal, and declining to overturn the decision of the Director of Procurement.

On December 15, 2016, in accordance with the Procedures, BENCOR appealed the decision of The Vice President, Business Operations and Finance, to the District Board of Trustees, essentially citing the same grounds for appeal as twice previously expressed. The Procedures afford BENCOR the opportunity to make an oral presentation to the Board with respect to its protest, followed by an oral presentation by the College, which will occur during today's Special Meeting.

With respect to BENCOR's stated concerns, in addition to its previous written responses to BENCOR's appeals, Valencia expresses the following:

The Process

Valencia College Business Imperatives

Valencia College recognized the importance of testing the market for services last competitively bid in 2005, in order to ascertain which firms now are willing and able to provide services to Valencia, what new participant services and products are now available in today's market, what other services are being offered, and to identify available plan administration innovations and investment services and products. Entering this ITN process demonstrated Valencia's desire to demonstrate good stewardship and provide improved opportunities and services for ALL participants, including retired participants who are free to withdraw their plan dollars at their discretion to pursue alternate investments, and to current participants who are prohibited from withdrawing their plan dollars in the same manner.

The ITN process was instrumental in helping Valencia identify and offer plans and services to meet evolving needs of an ever growing number of plan participants. Valencia must consider and balance the diverse needs of retirees and a multi-generational workforce in providing a variety of choices of services and accessibility options to tools, information, education, and investments in support of both short term and long term retirement goals. This also bolsters the College's efforts to recruit and retain excellent faculty and staff in support of the College mission.

Intentional Choice of Method of Competitive Solicitation – Invitation to Negotiate

It is important to note that this was not a "low-bid" solicitation, as might be used when purchasing certain goods. To advance its business imperatives, Valencia chose the ITN process for this solicitation in order to best discern the best value (for the cost) to the college and its plan participants.

In choosing the collaborative, flexible, and innovative ITN process as having the greatest potential for a successful result, the College intentionally rejected other more rigid solicitation approaches,

such as request for proposals or invitation to bid, which might have given price the greatest and controlling weight in the evaluation criteria, perhaps favoring the cheapest alternative over the alternative the very best value for the College and its plan participants. This “best value” priority is evidenced by the weighted values assigned to the ITN’s evaluation criteria, which for example assign “Price” a weight of only 15% out of 100%, and “Investments” a weight of 20% out of 100%. Roughly two-thirds of the weighted value was assigned to other criteria important to the College in light of its business imperatives, with participant services and recordkeeping and administration being priorities. Valencia College administered the ITN process according to its terms and the requirements of law, and the notice of intended decision resulting from this process is not improper, unfair, arbitrary and/or contrary to competition.

No Material Deviations in VALIC’s Response

With respect to BENCOR’s contention that VALIC submitted a response to the ITN that was not responsive because it failed to comply with two of the mandatory requirements of the ITN relating to Background Checks and Security and Confidentiality, the College did not find that VALIC’s responses in these two instances constituted material deviations from mandatory requirements contained in the ITN. As part of its ITN process, Valencia asked all Respondents to identify any exceptions to terms and conditions set forth in the ITN and to describe reasons for any such exceptions. VALIC’s answers, in direct response to Valencia’s specific request, clearly were not refusals to comply or expressions of disagreement, rather VALIC’s responses sought to clarify consistency with other provisions in the ITN and to obtain further information on the implementation of the second provision. According to the ITN, these alleged deviations would be considered to be material only if, in its sole discretion, Valencia finds that the VALIC responses at issue were not in substantial accord with ITN requirements, provided VALIC with an advantage over BENCOR or Voya, or that it had a potentially significant effect on the quality of VALIC’s response or on the cost to the College. Valencia has exercised its discretion properly, and declined to find VALIC’s responses to be material deviations.

Mathematical Errors

A minor formulaic error was discovered in the Committee’s evaluation scoring sheet following the Best and Final Offer stage of the ITN. Before the error was discovered, the final ranking of the respondents were VALIC first, Voya second, and BENCOR last. After the error was corrected, the final ranking remained in the exact same order of VALIC first, Voya second, and BENCOR last. Therefore, it was determined that this error did not invalidate the entire process as suggested by BENCOR, and did not somehow make the intended decision improper, unfair, arbitrary and/or contrary to competition.

In addition, in its evaluation, the College considered all costs of the plans for each Respondent, whether the costs were in the form of an explicit flat dollar fee charged to each participant, or a less transparent revenue sharing deducted in the form of basis points of assets, or a combination of both. The initial projection of fees (flat dollar fees and basis points) resulted in a sub-ranking based on price alone, with BENCOR ranked second of seven, Voya ranked fourth and VALIC fifth. Revalidation of Mercer’s assumptions of basis points charged by BENCOR, VALIC and VOYA indicated an understatement of \$24,971 in projected VALIC fees. This correction was made and the resulting increase in the calculated cost for projected VALIC fees did not alter the price ranking at all, and after the correction the seven Respondents’ price ranking remained exactly the same -BENCOR second of seven, Voya fourth and VALIC fifth.

BENCOR Public Records Requests

Valencia provided BENCOR with copies of requested public records in accordance with the requirements of Florida law. All requested public records were made available to BENCOR

within a reasonable time following each request, to allow for the location, retrieval, and copying of responsive public records, the determination of any applicable exemptions and redaction of those portions of the records that were determined to be exempt from production, and the payment by BENCOR of any statutorily authorized fees that were charged or imposed with respect to the production of such requested records. Accordingly, Valencia's compliance with the law in this regard did not somehow render the intended decision improper, unfair, arbitrary and/or contrary to competition.

Pricing and Fees

BENCOR's persistent disagreement with Valencia's business decision with respect to its discernment of overall best value versus absolute low cost suggests that BENCOR simply disagrees with Valencia's business imperatives and stated evaluation criteria and associated weighting. But, the time to express that disagreement in a formal way has passed, and BENCOR declined to express its disagreement during the permitted time period. The Evaluation Committee recognized that BENCOR offered the lowest cost for the FICA Alternative Plan (it was acknowledged that BENCOR also had higher costs for the five other defined contribution plans, in which the College hopes to increase participation) and was aware of these cost differences when it scored in accordance with the ITN evaluation criteria, which included price as a component weighted at only 15%, and placed greater collective value on certain criteria other than price, as adopted by the College to discern and obtain the best value for the College and its participants. So, the members of the Evaluation Committee and Valencia's retained consultant were not confused and they did not collectively misunderstand each of the Respondents' proposals with respect to fees and pricing. Simply put, while BENCOR indeed may have offered lower costs in certain aspects of its response, and may have offered a higher rate on one of its products available to a portion of the College's participants, it was VALIC, and not BENCOR, that was found to offer the overall best value to the College in accordance with the ITN process. In fact, BENCOR was not even found to offer the second best value to the College, as this position was awarded to Voya.

Other Services

The ITN clearly provides for the College's use of new selection criteria in the Best and Final Offers (BAFO) section: "...participating Respondents may be provided a revised Scope of Services, if warranted, and may be requested to submit a written summary of their capabilities and technical approach to the revised Scope of Services and, if necessary, a revised price proposal which will be the Respondent's best and final offers." BENCOR's contention that the College did not adhere to the criteria set forth in the ITN, specifically that BENCOR was unaware that 403(b) data coordination, captured under "Other Services," would be scored, is not supported by the facts. In accordance with the language contained in the ITN, the College revised the Evaluation Criteria in Phase III and provided that Other Services would be weighted at 5%. BENCOR knew of these final ITN terms and affirmatively agreed to them. In fact, BENCOR's CEO signed and submitted the BAFO form that specified this revision, of which they now claim no knowledge. The College properly revised the Evaluation Criteria, effectively communicated those changes to all finalists, including BENCOR, and adhered to the revised criteria in scoring and ranking the Respondents.

RECOMMENDATION:

The President recommends that the Board of Trustees of Valencia College deny BENCOR's appeal in its entirety and consider as a matter of new business during this Special Meeting, the award of ITN 2016-80, Special Pay Plan, 457 Voluntary Plan, and FICA Alternative Plan Services.



President