

I am Vinnie Grande and I hope you are all well. You recently received a letter from a law firm pertaining to the City's issued RFP L-50-16 – Independent Auditing Services (re-bid). If you will recall, after a protracted and thoughtful discussion at your last Commission Meeting, Item no. 5 regarding the selection of an Independent Auditor whom answers directly to the City Commission, was tabled.

I would like to take this opportunity to explain and inform regarding Independent Auditor Selection procedures for municipalities, which are governed by both *Florida Statute 218.391: Auditor Selection Procedure*, and the specifications delineated in the *City's own RFP*. If you wish to review these documents, your staff provided the identified Florida statute in its backup documents to Item no. 22 pertaining to the establishment of an audit committee, at the Commission's April 12th meeting; your staff provided the City's RFP in its backup documents to Item no. 5 at the Commission's July 26 meeting.

In reviewing the law firm's letter, I see no reference to Florida Statute 218.391. I also note they do not reference the Commission's role in picking their Independent Auditor, as specifically detailed in the City's RFP. They also indicate the following in their letter to the City: "The City **must** stand by its sound evaluation process and the work done by its selection evaluation committee". **Fact:** Please understand the **City Commission does not have** to ratify the recommendation of its evaluation committee; it can pick any of the top 3 ranked firms to be the City's Independent Auditor, whom directly answers to the City Commission, per language in the State Statute and the City's RFP. Cities which immediately come to mind whom have not ratified their Audit Committee's recommended firm in recent times (and by no means is this meant to be a comprehensive and complete listing) are Pembroke Pines, Sunny Isles Beach, Fort Lauderdale, Miami Gardens and Winter Park. The auditor answers to the Commission.

Florida Statute 218.391 Auditor Selections Procedures, contains the following verbatim language:

- (3) *The Audit Committee shall: (e) Rank and **recommend** in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services...*
- (4) *The governing body shall inquire of qualified firms as to the basis of compensation, select one of the firms recommended by the audit committee, and negotiate a contract...*
- (4)(b) *If compensation is one of the factors established pursuant to paragraph (3)(a) and used in the evaluation of proposals pursuant to paragraph (3)(d), the governing body shall select the highest qualified firm or must document in its public records the reason for not selecting the highest-ranked qualified firm.*
- (4)(c) *The governing body may select a firm recommended by the audit committee and negotiate a contract with one of the recommended firms using an appropriate alternative negotiation method for which compensation is not the sole or predominant factor used to select the firm.*

Thus, State Statute clearly indicates in multiple places that the Commission can pick any of the 3 most highly qualified firms to be their Commission Auditor when compensation is an established factor used in the evaluation of proposals. To summarize, here are specific facts of the Statute:

- ✓ **Any** of the 3 ranked firms recommended by the Committee can be chosen by the Commission
- ✓ The Commission *must document why* it didn't pick the top ranked firm if it chooses another firm
- ✓ Price **can** be a factor in the selection of another firm; it can't be the sole or predominant factor

The City's RFP contains the following language on pages 17, 18 and 19:

- SECTION VII-EVALUATION PROCEDURES:
 - C. Evaluation Criteria; first paragraph of page 19, third sentence: When more than three responses are received, the committee shall furnish the City Commission (for their approval) a listing in ranked order, of no fewer than three firms to be the most highly qualified to perform the service.
 - C. Evaluation Criteria; second paragraph of page 19: The City Commission has the authority to (including, but not limited to); approve the recommendation; reject the recommendation and direct staff to re-advertise the solicitation; or, review the responses themselves and/or request oral presentations and determine a ranking that may be the same or different from what was originally presented to the City Commission.
 - C. Evaluation Criteria; Page 18 - Cost will not be the primary factor in the selection of an audit firm.
 - B. Review of Proposals; Page 17, second paragraph of B.: Per Florida Statutes 218.391 – Auditor Selection Process, the City Commission shall select the highest-ranked firm from the list provided or must document the reason for not selecting the highest-ranked qualified firm.
- Section VIII-FINAL SELECTION:
 - The City Commission will be responsible for the final selection of the firm.

As indicated above, the City's RFP mimes State Statute 218.391 and (1) allows the Commission the flexibility and latitude to pick any of the 3 highest ranked and recommended qualified firms (2) states price cannot be the primary factor but can be a factor (3) indicates that if the top firm isn't picked, it must be documented why and (4) confirms it's eventually the governing body's decision and responsibility. Please note in all the cases I eluded to earlier where other City Commissions have not picked the top ranked firm of the Audit Committee, they have documented why they are not doing so and chosen one of the other ranked/recommended firms.

The letter you received from the law firm also indicates the RFP did not require the rotation of audit firms. *Rotation is a policy decision which is strictly in the hands and purview of the current City Commission during their selection of an Independent auditing firm;* in fact, this was stated by your staff at the 4/12/16 City Commission meeting when they discussed both the pros and cons of auditor rotation and said it was a policy decision of the Commission. At the same 4/12/16 Meeting during discussion and deliberation of the Audit Committee agenda item, the two Commissioners who spoke on the audit committee action item brought up the subject of auditor rotation. Harkening back to 2011, it is evident that even then with a different City Commission, there was lengthy discussion over the course of two meetings regarding rotation versus non rotation. My opinion is it is up to you, individually and as a Commission, to be or not be a factor in this process, depending on the thoughts, will and inclinations of you, individually and as a collective governing body. I, as an advocate, will leave this issue for the Commission to decide and vet.

The law firm noted that none of the proposing firms challenged the RFP specifications or the recommendation of the award. This being the case, these assertions are not applicable to this particular RFP and selection process in any way. As delineated in State Statute 218.391 and the City's own RFP language as identified above, the decision rests with the City Commission to exercise their own thoughts and judgement in a publicly advertised forum, as to whom they will pick as the Commission's Independent auditor from the audit committee's submitted top three ranked and recommended firms. And this is exactly where this issue stood/stands, back on both July 26th and next week on September 13th. The good thing for the City Commission is that the three highest ranked/recommended and qualified firms are all able to perform the City's audit, and are separated by a mere 16 points out of 400 points, in a subjective process.

Thank you for your attention to this memo. I hope I have clarified and made your understanding clearer as to the specifics of the auditor selection process and the corresponding defined and important responsibilities borne by you, the governing body of Pompano Beach, in this very critical selection you will make, in addition to clarifying and setting the record straight on other asserted points recently submitted to the City.

The selection of an independent and qualified auditing firm that is hired and ultimately answers directly to the City Commission is a very important decision for each elected official on an individual basis and the entire governing body as a whole.

Please add this memo to the Commission back-up when this award is scheduled. Thanks so much.

Sincerely,

Vinnie Grande
GRANDe Consulting, Inc.