

**COUNTY USE OF THE RFP PROCESS TO SELECT JOINT
VENTURE DEVELOPERS OF WATER-VIEW PROPERTY:
A CASE STUDY**

Darla H. Herbold*

ABSTRACT. Requests for Proposals (RFPs) are typically issued to solicit competitive proposals for a variety of professional services and commodities. The Baltimore County Purchasing Bureau issued 30 RFPs in fiscal year 2001 as well as 550 requests for formal and informal bids. The use of RFPs and the RFP process for choosing a land developer was creative. The fact that the property to be developed impacted the quality of life of the neighboring residents made their buy-in to the project critical. Therefore, it was prudent to include community representatives in the proposal selection process. This article identifies the unique issues on an RFP for the sale of real property rather than the purchase of services or commodities.

INTRODUCTION

Since 1997, Baltimore County, Maryland, has led a comprehensive initiative to revitalize the Essex/Middle River area of the county. The keystone project in this effort was the redevelopment of the former Riverdale residential neighborhood with a community commercial center and localized amenities. The site fronts a major road on the southeast and is bounded by the headwaters of Middle River to the northeast, a four-track AMTRAC/CSX commuter line to the northwest, and an established older community to the west and southwest. The county decided that a request for proposals (RFP) would be the best process to competitively select a developer for the site.

* *Darla H. Herbold, CPPO, is Chief Procurement Officer, Baltimore County, Maryland.*

HISTORICAL BACKGROUND

In the fall of 1998 Baltimore County, Maryland, acquired 65 acres of property that had contained rundown and uninhabitable substandard apartments. Forty acres were acquired directly by the county because of nonpayment of property taxes. The U. S. Department of Housing and Urban Development (HUD) owned the remaining acreage and was glad to sell it to the county. The HUD contract of sale contained an equity rider requiring an apportionment of any proceeds resulting from the sale of the property. Upon acquisition of this prime property that had become a community eyesore, the county was committed to turning the land into an economic development success. The site is adjacent to a Chesapeake Bay Critical Area, and from the highest point, the property overlooks Middle River, a waterfront destination encompassing three privately owned marinas that are dated and in need of rehabilitation.

In conjunction with the county executive's desire to revitalize the Middle River area and other older communities, a bill was introduced in the state legislature in 2000 that would expand the definition of "public purpose" in existing eminent domain law to include acquisition of land for redevelopment. This would have allowed the county to acquire additional privately owned land that was between the 65 acres already owned by the county and three privately owned marinas that were the subject of an engineering study under another RFP. The bill in the state legislature received negative comments from the community members who cried foul at the county's desire to grab up prime real estate that would result in the relocation of homeowners and business owners who had owned waterfront property for many, many years. The bill was subsequently defeated, but that did not prevent the county from moving forward on redevelopment of the 65 acres or from conducting a study of the privately owned marinas.

BEFORE THE RFP PROCESS

Before acquiring the 65 acres containing the substandard apartments, the county undertook the process of relocating the remaining occupants. Of the 598 apartments, 270 were vacant, and the tenants of the remaining 20 were relocated within 30 days between May 12 and June 13, 1997. The relocation was coordinated by the county's Office of Community Conservation and included a short-term tenant rental subsidy that totaled

\$500,000. Once the apartments were vacant, the county contracted to have the buildings demolished and the site cleared. The county removed all buildings, parking lots, and roads with the exception of a couple of main thoroughfares. The site was graded to backfill the foundations, and significant mature trees were retained. The sewer trunk line of one thoroughfare was retained but all laterals were removed. The county also had to rezone the property and surrounding properties integrated into the plan to facilitate the redevelopment. Since the property contained two small streams, the county's Department of Environmental Protection and Resource Management reviewed the environmental conditions and outlined alternatives for protecting the wetland and stream resources. The revitalization of the Essex/Middle River area is a fine example of interagency cooperation given the many offices and departments in the county that had an influence on such a long-term project.

THE RFP PROCESS

The county decided that the Purchasing Bureau's RFP process would lend credibility and an ethical stance to this highly sensitive disposition of property. Following a couple of months of drafting and redrafting, with input from stakeholders such as Economic Development, Environmental Protection and Resource Management, the Office of Planning, Recreation and Parks, and the Purchasing Bureau, the RFP was ready to be issued. The RFP detailed the county's desire to select residential and commercial developers to build single-family homes in a neotraditional neighborhood design that would include a commercial center of approximately 80,000 square feet. On August 3, 2000, the RFP was issued. Approximately 40 potential offerors received the solicitation.

The Chief Procurement Officer was entrusted with ensuring a successful RFP. A community representative and a representative from the business community needed to be included on the evaluation committee. Outside representatives from the state or other local jurisdictions had served on evaluation committees before but never people from the community who were not familiar with procurement rules and regulations. Committee members were reminded of the importance of their role in the evaluation process and that it was important for them to attend all the meetings. Nonetheless, there were times in the process when they would forget this important reminder.

The Evaluation Committee

The Evaluation Committee consisted of representatives of the Department of Economic Development, the Office of Community Conservation, the Office of Planning, the Administrative Office, the Maryland chapter of the American Society of Landscape Architects, the community association, the business association, and the Chief Procurement Officer. Individuals from the county offices and outside groups were chosen for their areas of expertise and abilities to represent the various stakeholders. Additionally, the individuals outside the county would facilitate the community buy-in to the project. To familiarize the Evaluation Committee with the procurement rules and RFP process, the committee met early and was informed by the chief procurement officer that they would likely get questions about the process and the evaluation from members of the community and the media. The importance of not responding to the questions was stressed and members were advised that all questions relating to the procurement must be directed to the Chief Procurement Officer. Each member was advised that inappropriate discussions with anyone outside the Evaluation Committee could render the solicitation void. It was clearly understood by all committee members that the Purchasing Bureau was conducting the procurement and not the Department of Economic Development.

The RFP required offerors to submit technical and price proposals separately. The technical proposals would be evaluated and scored first, and then the price proposals would be evaluated and scored according to a predetermined mathematical formula with the highest bid, in this case, receiving the full number of points for the price proposal. The lower bids would receive a prorated number of points. From those scores the short-list would be determined. It was emphasized that the number of proposals to be included in the short list had not been pre-determined; it depends on how the numbers fall. Further, examples of previous RFPs were discussed to demonstrate the success of other procurements using the county's RFP process to assure the committee members that they were participating in a process that would result in a successful outcome benefiting the community and the County.

Community Involvement

Another unusual twist to this evaluation process was permitting the larger community to share their ideas on the selection of the developer in a community/town meeting format. The meeting would take place following the identification of the short list. The short-listed offerors would present their proposals, including artist renderings, and community members would be allowed two weeks to give written comments on the proposals to the Chief Procurement Officer. The community comments would be considered in developing the questions for the oral interview with the finalists.

Pre-Proposal Conference

The pre-proposal conference on August 29, 2000, was conducted at the elementary school that serves the community and included a walking tour of the property prior to the start of the formal meeting. Due to the high profile nature of the pending bill in the state legislature, representatives of the media were expected to attend the pre-proposal conference. Though no media was present at the pre-proposal conference, following the conference, the media began to inquire about the project. Among other things, they wanted to know the names and positions of the individuals on the Evaluation Committee, which the Chief Procurement Officer was reluctant to provide for fear that the community and business representatives on the Evaluation Committee would be put in a position to be “bullied” by the media. The Chief Procurement Officer also did not want the county members of the committee or members of the community, who were affected by the pending bill, to be contacted by the media. So, in the short-run, the Chief Procurement Officer was able to avoid revealing the names of the committee members.

The pre-proposal conference was fairly uneventful, except that the Executive Director of the Maryland Qualifications-Based Selection Council felt the Evaluation Committee should not be selecting the developer based on an RFP process but should be selecting the developer based on qualifications only, as is done in the selection process for architects and engineers. He objected to the requirement for price proposals to be submitted along with the technical proposals and suggested the committee should ask for technical qualifications only, then negotiate the sale price with the most qualified offeror. Despite this

objection to the process, the Chief Procurement Officer insisted that the competitive RFP process was an appropriate procurement method that allowed for price negotiation following receipt of proposals and would result in the selection of the best value for the county.

Technical Review

Six proposals were received on September 29, 2001, and only the technical proposals were distributed to the Evaluation Committee for review and scoring. At the first Evaluation Committee meeting the County Attorney (serving in an advisory capacity) and the Director of Economic Development (a member of the Evaluation Committee) attempted to commandeer the committee and asserted that all of the proposals were so good that the committee should place them all on the short-list. (The Director of Economic Development had not attended the earlier meeting when the ground rules for the evaluation process had been spelled out.) The group was reminded that the Purchasing Bureau was conducting the procurement and that the RFP procedures would be followed. Therefore, the evaluation process would be undertaken and a short list would be developed based on the scores.

The evaluation process was followed according to plan. It resulted in the identification of three proposals that were placed on the short list. However, the short-listed offeror that scored the highest on the technical proposal was seriously deficient in the price proposal. The deficiency could have eliminated the offeror from further consideration based solely on the numbers. Nevertheless, due to the significantly high score received on the technical proposal, the offeror was included in the short list and permitted to remedy the deficiency in the price negotiation phase.

Community Meeting

The November 14, 2000, community meeting, held in the community high school, was well attended (approximately 175 citizens including state and local politicians). The community had the opportunity to informally review the drawings and talk with the development teams. This was followed by a formal presentation by the county and each development team.

Despite the concerns of many county officials about how attendees would respond to the information, and in light of the negative press

received relative to the eminent domain bill, the response was very favorable and the attendees were quite civil. The number of written comments was small compared to what was anticipated given the intense public involvement and the media hype surrounding the redevelopment of this property. Community members verbally voiced concerns to the politicians and the media, who in turn passed those concerns on to the Chief Procurement Officer either directly or indirectly through other county employees, some of whom were on the evaluation committee and some not.

Outside Influences

In mid November a letter was sent to the finalists asking them to remind their teams that the Chief Procurement Officer was the sole point of contact for the procurement and it was to him that all questions and concerns ought to be addressed. Although there was a significant amount of outside pressure on the Evaluation Committee and the finalists, the process successfully stayed the course and remained focused on its task. Needless to say, this RFP process became a full-time project of the Chief Procurement Officer.

The most difficult part of the evaluation was selecting the winning proposal from the short list. Between November 14, 2000, and February 14, 2001 (the date the winning proposal was announced), there was intense pressure from the community associations, elected officials, and the media to release additional information. They wanted information regarding proposed lot sizes, the number of proposed homes, and the size of the commercial area, and traffic and transportation issues. It was as though the Evaluation Committee grew from 9 to 200; everyone had an opinion.

In January 2001 a press release was issued by a County Council member directing the county to review the plans and revise them to have larger lots, adequate setbacks, nice sized yards and plenty of community open space. This required quick action and diplomacy to keep this information from impacting the Evaluation Committee's deliberations. The RFP did not include specific lot size or set back requirements for the residential component or contain an express limitation on the amount of commercial space. The decision was made not to include such specific requirements in an effort to encourage the development community to put forth their creative talents in a competitive forum that would allow

the county to select a realistic, economically viable project of the highest quality.

Despite all the outside interference, including pressure from one of the offerors who apparently had some political connections to persuade selection of its proposal, on February 14, 2001, the winning proposal was announced. The discussions that followed after the oral presentations revealed that political issues kept surfacing as a distraction to the Evaluation Committee's deliberations. Fortunately, with great perseverance, frequent recitations of the mantra of ethical conduct and the importance of maintaining a sterile procurement process, the committee focused on the task of selecting the proposal that represented the best value to the community and the county.

Award Recommendation

Following the award recommendation on February 14, 2001, the Purchasing Bureau still had to negotiate the contract of sale and obtain the County Council's approval. Reaching agreement on the contract language took several months (from March 2001 to October 2001). The County Council approved the contract of sale in the amount of \$3.3 million on December 17, 2001. The groundbreaking ceremony was January 29, 2002. As of May 2002, the developer has received deposits on 38 lots during the pre-construction phase of sales and two model homes are expected to open in July 2002.

The engineering study of the three privately owned marinas that ran on a parallel track was awarded on June 18, 2001. The study came to a close with the final report in February 2002 recommending the three properties be consolidated, creating a 20-acre site with approximately 2,000 feet of waterfront. The consultant recommended a multi-phase plan for immediate improvements to the marinas and, as the market changes, includes developing two restaurants, retail, office and residential condos and a "riverwalk" promenade with an area for civic gatherings.

CONCLUSION

In retrospect, it may have been possible for the Evaluation Committee to arrive at the same award recommendation about two months earlier, had the committee not had to contend with outside

influences of a political nature. Nonetheless, the committee maintained a unified front and selected the joint venture with the best redevelopment plan for the property. The process provided a great opportunity to (1) demonstrate how multiple agencies within government can work together for a common goal, and (2) introduce the competitive negotiation process to a market that typically does not compete for clients.

It was equally satisfying to turn the economic tide for the citizens who call this eastern Baltimore County community home. The 65 acres of rundown apartments known as Riverdale and a woefully small grocery store and drug store will be replaced with a new community called WaterView. The community will consist of 175 single-family homes, recreational areas, and a new commercial center with an anchor grocery store, large drug store, and restaurants and shops with a “main street” feel.

For consolidation of the three marinas to happen, it is likely that an outside developer will need to acquire/assemble all three properties. With WaterView off to a promising start, construction of another nearby community commencing the summer of 2002, the completion of the streetscape and various parks, it is only a matter of time before serious development interest will be expressed for the marinas.