



January 7, 2008

Memorandum to the Madison City Council and Economic Development Commission
From Richard S. Seline, CEO and Principal
Re Status of the Bio-Ag Incubator and Positioning Initiative

Official Request for Rehearing and Review of Selection Process

It is with deep regret that the following memorandum is shared with the City of Madison, the City Council, and the Economic Development Commission as several prior offers to find a mutually beneficial accommodation have been denied given the erroneous and less than transparent conduct of the Selection Process for a vendor regarding the Bio-Ag Incubator and Positioning Initiative. Rarely if at all has this firm requested such a rehearing and review of a selection process, but I would be remiss in not standing on principal that the flawed scenario that has emerged over the past weeks causes not just our national firm but others to now question the approach and tactics taken by City representatives in the course of awarding RFP-7873-0-2007/MM.

The Basis of Our Protest and Request

On October 10, 2007 date, New Economy Strategies LLC in partnership with Goodfellow Agricola, Integrated Marketing Solutions, and Avalanche Consulting responded to the official call for vendor replies to address the immediate needs for the City of Madison's assessment, market analysis, and national and international promotion of a Bio-Ag Incubator facility and program in advance of the 2008 Biotechnology Industry Organization conference and exhibit. Subsequent to our submittal, we were notified that our firm has been selected for an on-site presentation to the Review Committee, and as such attended on November 15, 2007 a hour-plus long session to present our qualifications, approach, timeline for deliverables and cost structure. On November 28, 2007, we were notified by City representatives that our firm had been selected by the Review Committee as having the best overall proposal and effective deliverables for meeting the objectives of the City and its long-term needs. We were informed that the process would include the recommendation of the Review Committee being forwarded to the Economic Development Commission for its review and acceptance, and then to purchasing review and award through the standard procedures.

On or about December 18, 2007, I was notified by voice mail and then by email to immediately contact Matt Mikolajewski to discuss an urgent matter. Upon communications with Mr. Mikolajewski, we learned the following:

1. That the New Economy Strategies Team was no longer the designated vendor for award as there had been a flaw in the counting of points among the Review Committee
2. That the point system had a change on one scoring sheet from a 79.8 to a 99.8,
3. That a NEW City preference for local vendors contributed an additional 5 percent to the local vendor's score
4. That both adjustments would result in the local vendor as the overall highest score with some 1.93 point difference out of a total of 1720 points, for a 0.1% difference between the score of the local vendor and NES
5. That the process for reviewing the score sheets had occurred by Mr. Matt Mikolajewski, in the absence of our original contact Mr. Michael Gay while on medical leave, and that the process therefore was no longer headed down the path that Mr. Gay had discussed with NES prior to his surgery.
6. That no member of the original Review Committee had been contacted nor sought out as to either clarification or request for information regarding the shifting of additional numbers, the change in their designation of NES as best-in-class vendor, or that an official change was taking place in a recommendation to the Economic Development Commission.
7. That after several electronic communications with Mr. Matt Mikolajewski and other City representatives regarding the process and the new recommendation, I hereby requested a rehearing by the Review Committee and/or a gathering of City representative with the Review Committee in a public setting so as to caucus for a determination if the new recommendation was in line with their wishes. Such a request was denied.
8. That further telephone and electronic communications with City representatives including Mr. Michael May, City Attorney, requesting an on-site visit AND suggesting that the NES Team was more than willing to find a mutually agreeable alternative structure of the workplan to include the local vendor so that all parties would be satisfied by the process – including the first-ever attempt to give local preference, such offer was declined and denied.
9. That in the telephone conversation with Mr. Michael May, I as informed that our firm had every right to protest the process by attending in person several meetings on January 9th and 10th in Madison to be heard and receive feedback to our protest, even though no information was provided to my firm of such meetings and the official means by which to communicate as protest appropriately.
10. That while our firm had been officially selected in what was now being described as a flawed math and addition issue, the local vendor had been informed and notified that its second-best proposal was going forward for award.

Principles on Conducting Business in a Public Setting

This firm and its team in no way seeks to instruct nor lecture City representatives on how best to conduct its business, however in over twenty-five years of doing business at the international, federal, state, county, and city levels, at no time have I nor my colleagues

been confronted with a less than transparent and frankly questionable process as we are with the City of Madison. In over 100 successful engagements with Secretaries of U.S. Cabinet Departments and Agencies, Governors, Chancellors and Presidents of major universities and other highly profiled leader in and around the public arena, we have never been treated nor communicated with regarding a selection process that on its surface is questionable and therefore raises issues on the length and depth by which a city or municipality will go to ensure local preference. When a national request for proposals is conducted by a community, it assumes that the process is open, fair, and transparent – and thus invites talented and capable firms to come forth with the best-in-class approach and thinking tailored to the local objectives. When national firms compete in the open market, there is an assumption that the process is configured to create a level playing field and review process.

I would further state that in my service as Deputy Assistant Secretary of the U.S. Department of Commerce under which we reviewed over 700+ proposals and congressional requests for funding, a process that was conducted in the manner by which the City of Madison has this process would have drawn public scrutiny and an official review of procedures by the Office of General Counsel and/or the Inspector General.

And in my dealings with well over 80 jurisdictions where elected officials are represented by a review committee and recommendation process, I have never been confronted by a process that signaled the lack of due diligence and effective resolution by all parties when a common error in methodology or communications occurred. Simply, I now approach the Economic Development Commission on principle rather than the economics of the award and the sounding of sour grapes!

Should your hearing and review of the local vendor continue as is, it will signal to national firms that the City of Madison is not open for business by best-in-class consultants other than those found in the local marketplace, and will indicate I believe that the City is willing to – behind close doors – do whatever is necessary to ensure only local vendors are selected. If that is the environment in which the Economic Development Commission, the Mayor and other elected and appointed officials operate in the City of Madison, I suggest that few if any national vendors will consider future RFPs to be fair, balanced, and on a level playing field. That is of course the choice of those reading this protest and others in the public domain to determine.

In addition to the highly irregular scoring process and incomplete resolution of the problems after the fact, we were in disbelief that a process could be put in place that would **not** award a contract to the firm that was selected by the review committee after the on-site interview as the preferred choice by 7 out of the 10 reviewers. **Never in my experience have I witnessed or even heard of a process whereby a firm could win an interview – by winning the higher score by more than a 2-to-1 margin over the second-best firm – and still lose the contract.** If this was the reality of the interview process, much time could have been saved by simply not conducting the interviews. In our opinion, interviews are conducted to answer questions and fill in gaps so that each reviewer can pick his/her preferred single choice. Again, after NES received the highest

overall score of all firms at the interview – which reflected the full picture of our qualifications, process, and capabilities – and being the preferred choice of more than 2 out of every 3 reviewers at the interview, the City continues on this path of recommending the local firm. Despite these irregular results, City staff does not believe it is in the best interests of the City to consult with the Selection Committee to ensure the result reflect their overall desires for an outcome.

We do not understand why City staff believes that they must following a strict process that cannot be altered or adjusted based on the desires of the Selection Committee, despite what the RFP states:

[Page 9, section 7.a.8]

At any phase, the City reserves the right to terminate, suspend or modify this selection process;

And, this statement in your RFP suggests that the Selection Committee has the full power to adjust its review process after hearing input in the interviews – possibly even rescoring the original proposals if necessary – though the City has made this option to the Selection Committee despite the irregularities:

[Page 9, section 7.a.2]

The City’s RFP Selection Committee will make the final selection and recommendation following the evaluation of the proposals and interviews with some or all of the Consultants. However, the City may make preliminary selection(s) on the basis of the original proposals only, without negotiation or interviews with any proposers. Upon completion of interview(s), if required by the Selection Committee, the Committee will re-evaluate, re-rate and re-rank the remaining proposals in consideration based upon the written documents submitted and any clarifications offered in the interviews.

We regretfully believe that the City staff is not reflecting the will of the Selection Committee, nor are they willing to return to the Selection Committee to get their confirmation of the result as a group – thinking instead that the path forward is an administrative staff decision, not a strategic decision by the committee as stated in the RFP.

We hope that the Economic Development Commission and City Council members can see the path forward that is in the best interest of the City – and choose that path. We provide the following alternatives as potential alternatives in the short-term to resolve these many issues and concerns.

Recommended Alternatives for Next Steps

- a. Conduct the entire process in a public setting or forum for determination that the original Review Committee’s recommendation to the City and the EDC has changed rather than their being told their time and energies have been overruled –

meaning give the Review Team an opportunity to express its intent regardless of the scoring issues that have now become quite questionable.

- b. Consider the NES Team as the prime contractor and provide a setting for us to work with the local vendor to come forward with a world-class scenario that the best elements are offered to the City and citizens among the two teams
- c. Consider the entire process flawed, less than transparent and frankly inappropriate for award, and therefore cancel the awarding of the contract to any party.