



Department of Emergency Services

Memorandum

76983

DATE: May 27, 2020

TO: Board of Acquisition and Contract

FROM: John Cullen
Commissioner, Department of Emergency Services

SUBJECT: Authority for the County of Westchester to enter into an agreement with Kenyon International Emergency Services, Inc., pursuant to which it will provide fatality management services.

Authority is respectfully requested from your Honorable Board for the County of Westchester (the "County") to enter into an agreement (the "Agreement") with Kenyon International Emergency Services, Inc. ("Kenyon"), pursuant to which Kenyon will provide fatality management services (the "Services") to the County, for a total amount not-to-exceed \$76,108.00, for the period from May 30, 2020 through June 30, 2020, (the "Initial Term") with the County having the option to, in its sole discretion, extend the term of the Agreement for as many additional successive periods of one (1) calendar month as the County may require, on at least five (5) days notice to Kenyon regarding each such extension (each an "Option Term"). Each Option Term shall be on the same terms as the Initial Term, including the unit costs for each of the tasks that comprise the services. However, under the Agreement, for each Option Term for which the County exercises its option, the County will determine, in its sole discretion, the increase, if any, in the above-stated not-to-exceed amount for which the County will seek approval from your Honorable Board.

Under the proposed Agreement, the County would agree to the following:

"The [County] shall defend and hold Kenyon harmless from and against any and all claims, causes of action and other liabilities arising in connection with this Agreement to the extent that such claim, cause of action or liability is caused by the negligence or misconduct of [the County], its agents, employees or representatives."

The proposed Agreement will serve a public purpose by ensuring that the County has the fatality management services that it now requires as a result of the COVID-19 pandemic.

The goal and objective of the proposed Agreement is to ensure that the County has the fatality management services that it now requires as a result of the COVID-19 pandemic.

The goal and objective of the proposed Agreement is in the best interests of the County in terms of health and safety, as ensuring the proper management of decedents will help ensure the health and safety of the residents of Westchester County.

The goal and objective of the proposed Agreement will be tracked and monitored by the staff of the Department of Emergency Services.

On May 19, 2020, in compliance with Section 5 of the County's Procurement Policy, the Department of Emergency Services sent a request for quotes ("RFQ") for the Services from a number of entities that customarily provide such services. In response, the County received one (1) quote, which was from Kenyon. Accordingly, given the County's need for the Services, the quote from Kenyon is the offer that is most advantageous to the County.

It is anticipated that the Agreement will be funded with federal funds. Section 13 of the Westchester County Procurement Policy specifies that each procurement that is funded, in whole or in part, by federal funds shall be made in accordance with any and all applicable federal laws, regulations, rules, guidance, instructions, or grant terms. The Department of Emergency Services issued the RFQ in compliance with 2 C.F.R. 200.320(b), which specifies that "small purchase procedures", for which "price or rate quotations must be obtained from an adequate number of qualified sources", can be used for procurements of up to the simplified acquisition threshold of \$150,000. As noted above, the County obtained only one (1) quote during the RFQ process, as no other offeror(s) timely submitted a quote. However, the County does not have the time to issue a new competitive solicitation, as it has an urgent need for the Services due to the fact that the personnel previously assigned by New York State to assist with the Services will be departing on May 29, 2020. Accordingly, the procurement of the Agreement complies with 2 C.F.R. 200.320(f)(2), which allows for non-competitive procurement when "[t]he public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation", based on the emergency that currently exists with regard to COVID-19 and the related urgent need for the Services.

I respectfully recommend the adoption of the attached Resolution.

JC/DD/bdm/nn

RESOLUTION

Upon a communication from the Commissioner of the Department of Emergency Services, be it hereby:

RESOLVED, that the County of Westchester (the "County") is hereby authorized to enter into an agreement (the "Agreement") with Kenyon International Emergency Services, Inc. ("Kenyon"), pursuant to which Kenyon will provide fatality management services (the "Services") to the County, for a total amount not-to-exceed \$76,108.00, for the period from May 30, 2020 through June 30, 2020, (the "Initial Term") with the County having the option to, in its sole discretion, extend the term of the Agreement for as many additional successive periods of one (1) calendar month as the County may require, on at least five (5) days notice to Kenyon regarding each such extension (each an "Option Term"); and be it further

RESOLVED, that, under the Agreement, each Option Term shall be on the same terms as the Initial Term, including the unit costs for each of the tasks that comprise the Services; and be it further

RESOLVED, that, under the Agreement, for each Option Term for which the County exercises its option, the County will determine, in its sole discretion, the increase, if any, in the above-stated not-to-exceed amount for which the County will seek approval; and be it further

RESOLVED that, under the Agreement, the County is authorized to agree to the following:

"The [County] shall defend and hold Kenyon harmless from and against any and all claims, causes of action and other liabilities arising in connection with this Agreement to the extent that such claim, cause of action or liability is caused by the negligence or misconduct of [the County], its agents, employees or representatives."

; and be it further

RESOLVED, that the Agreement is subject to County appropriations; and be it further

RESOLVED, that the Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of the Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate the Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the contractor, then the contractor shall have the right to terminate the Agreement upon reasonable prior written notice; and be it further

RESOLVED, that the County Executive or his duly authorized designee is empowered to execute all documents and take all actions necessary to effect the purpose of this resolution.

Account to be
Charged/Credited

Fund	Dept	Unit	Object/ Sub Object	Trust Account	Activity	Dollars
101	20	1000	4998 01		8000	\$76,108

Budget Funding Year(s): 2020 Start Date: 05/30/20 End Date: 06/30/20
(must match resolution)

Funding Source	Tax Dollars:	_____
	State Aid:	_____
<u>\$76,108.00</u>	Federal Aid:	<u>\$76,108</u>
(must match resolution)	Other:	_____

APPROVED BOARD OF ACQUISITION & CONTRACT - 05/28/2020 LISA MRIJAJ, SECRETARY