



**MARIN EMERGENCY RADIO AUTHORITY**

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**SELECTION MEMO**

**DATE:** 02/18/2021

**PROJECT:** Next Generation Radio System IFB #2020-001 Civic Center, EOF, Mt. Barnabe

**RECORD OF AWARD OF CONSTRUCTION CONTRACT:**

This agenda item is being presented in accordance with Marin Emergency Radio Authority Executive Board Policy – Purchasing Policy and Procedures as well as Public Contract Code 20651. Pursuant to Public Contract Code competitive bidding requirements, on January 18, 2021 and January 25, 2021, MERA began legal advertisement to solicit bids for the Next Generation Radio System Project Civic Center, EOF, Mt. Barnabe (Invitation for Bid #2020-001). A pre-bid conference was held on January 28, 2021 and a pre-bid job walk held on February 5, 2021. On February 12, 2021 two (2) bids were received and opened via PlanetBids. The results were as follows:

NO.	CONTRACTOR	BASE BID	TOTAL PROPOSED AMOUNT
1	Fidato	\$169,000.	\$169,000.
2	LD Strobel	\$185,995.	\$185,995.

The MERA Construction Management Team reviewed the bids and determined that Fidato submitted the lowest bid cost. The low bid amount of \$169,000. was about 10% lower than the next highest, and only other, bidder.

Further review of the requested bid documents revealed three things that might make Fidato’s bid irregular as the apparent lowest, responsive bidder. First, Fidato did not submit a bid bond via Surety2000 as requested in the Project Manual, Notice of Electronic Bidding, page NEB-2, paragraph 3 Electronic Bid Bond.

This paragraph states that a Bid Bond “may be” submitted “electronically” in the form and content included in the Contract Documents. The paragraph then stipulates that “electronic Bid Bond is verified through Surety2000”. Furthermore, this paragraph states that “Bidders submitting an electronic Bid Bond are solely responsible for completing Surety2000 registration requirements and payment of Surety2000 fees and charges.”

Fidato did submit Bid Bond information via PlanetBids by uploading PDF Bid Bond related Bid Forms. If MERA were to accept Fidato’s bid, there would be a need to validate Fidato’s bid bond outside of Surety2000. Note: LD Strobel submitted a bid bond form via PlanetBids and submitted the bid bond through Surrety2000. While Fidato did not submit their Bid Bond, through Surety2000, they did submit bid bond information using the correct form provided in the bid documents. If the Bid Bond information is verified by MERA as being correct there would no reason to dismiss Fidato’s bid for not submitting a Bid Bond.



Second, Fidato submitted the resume for a “Project Manager” that appears to have minimal construction experience and no demonstrable site supervision experience. The General Conditions of the bid documents do not prescribe exact requirements for the Contractor’s Superintendent or On-site Construction Manager other than saying:

“The Contractor shall, at all times, have a competent and experienced Superintendent as his agent on the Project. The Superintendent shall be in charge of the Work, shall be capable of reading and thoroughly understanding the Drawings and Specifications, and shall have full authority to execute the orders or directions of the Engineer without delay and to promptly furnish such labor, materials, equipment, tools and incidentals as may be required.”

The above indicates that Fidato’s proposed Project Manager, while not ideal in terms of Project Management experience, can qualify to work on the MERA Project provided he is able to read plans and supplies labor, materials and equipment to the project. Based on this, there is no reason to disqualify Fidato’s proposed Project Manager.

Third, Fidato did not sign the Debarment and Suspension Certification form. Instead of signing the form Fidato placed “n/a” in the signature area. AECOM contacted the owner of Fidato to ask why this form was not signed. Fidato explained that since the signature sheet referenced the bidder’s “subcontractor”, they assumed the form did not have to be signed by Fidato since they did not have any subcontractors listed on their bid documents. Fidato explained that they misunderstood their requirement to sign the form and issued to AECOM a signed Debarment and Suspension Certification form after bidding was completed. The bid documents allow the signed version of this form to be submitted within four days after bidding is completed. Since Fidato did submit this form within four days after bidding was completed this should no longer be considered as an issue to not accept Fidato’s bid.

Our research shows that Fidato markets themselves more as a “strategic planning and advisory company” that focuses on IT, telecommunications and Security systems rather than an electrical contractor. Fidato also markets themselves as a Technology Integration and Construction Management company. While Fidato does not market themselves as an electrical contractor we did verify that they hold a C10 Electrical and a C7 Low-Voltage System Electrical contractor’s licenses and has provided, on an annual basis, construction contracting services in excess of over \$7,000,000 per year. This demonstrates a level of competence that should be acceptable to work on this project despite some minor irregularities in their bid documents.

The next lowest and only other bidder, LD Strobel, while submitting their Bid Bond through Surety2000 and providing the resume of a highly qualified Superintendent did also have an irregularity with their bid. Addenda #2 stated that each bidder submit a unit cost for the replacement of damaged, existing floor joists at the Mt. Barnabe shelter building.

LD Strobel submitted \$00.00 as a unit cost in PlanetBids and no unit cost information in the associated PDF bid form, which was uploaded to PlanetBids. It was initially unclear why LD Strobel did not provide the requested unit cost information when Fidato provided the unit cost information in their bid. This



situation resulted in AECOM communicating with the LD Strobel Project Manager that was responsible for submitting the bid. AECOM asked why the floor joist replacement bid cost information was not properly provided. LD Strobel explained that they are familiar with the type of prefabricated shelter building at Mt. Barnabe and that this type of structure does not have floor joists according to their experience. LD Strobel said by keeping the floor joist cost information out of their bid it might make their bid more competitive.

Due the above irregularities with both bids, MERA has three possible options on how to proceed:

### **Option 1. Reject Fidato Bid**

This option would require that MERA reject the Fidato low bid and select Strobel as the responsive low bidder.

Plusses:

- MERA will be using a contractor that has extensive experience with wireless communications systems (tower and electrical) construction.
- The proposed site superintendent has extensive field experience with wireless communications system
- Strobel's pricing is about 10% higher than Fidatos but still can be considered competitive and is close to the Engineer's estimate.

The minuses include the following:

- Fidato could submit a protest since there are irregularities with the second lowest bidder. A protest could delay an award of this contract and delay the start of construction. While there is a risk of a formal protest MERA has the authority to either accept or reject the protest. We suggest MERA review this option with legal counsel before proceeding.

### **Option 2. Accept Fidato Bid**

As the lowest, responsive bidder, Fidato should be seriously considered to be awarded the contract.

Plusses:

- This option is the cleanest and easiest.
- Keeps this project on schedule in terms of contract award.
- Lowest cost of all the bids but still within the range of Engineer's Estimate.
- Owner of Fidato has considerable industry experience and success and will likely stay very involved in this project.

Minuses:

- Strobel could file a protest since they submitted their bid bond through Surety2000 and presented a highly qualified Superintendent.



- Risk that Fidato does not have a strong field superintendent/site construction manager with enough industry experience and specifically communications systems experience.
- MERA will have to verify the Fidato Bid Bond outside of using Surety2000.
- Unclear how much electrical (high voltage power) contracting experience Fidato has.

### **Option 3. Reject All Bids and Combine Bid Pack 1 and Bid Pack 1a Together**

While MERA has the authority to reject all bids, this option poses an added layer of complexity.

Plusses:

- Larger bid package (about \$600,000) might attract a larger pool of qualified bidders
- Avoid any protests associated with Bid Package 1.

Minuses:

- Added complexity of combing two different bid packages
- Delay to start of bid phase for Bid Package 1A, of one to two weeks, which is scheduled for 2/17/21
- Longer duration to original BP1a duration which might impact Motorola's ability to start per their schedule. This would require to additional analysis to see if there is any impact to Motorola's work.
- Reduced bid phase duration due to time needed to combine the two bid packages.

### **Summary:**

While it appears that there are two competent bids provided for Bid Package #1, there are some irregularities in both contractor's proposals. None of the irregularities appear to warrant a rejection of either proposal, although LD Strobel's intentionally leaving out requested cost information, based on them supposedly having superior knowledge about the existing site conditions, is highly unusual and presumptive. Typically, in this type of situation, the bidder would submit a pre-bid "Request for Information". This would enable MERA to be notified of the bidder's intent to submit a \$0 price since, in the bidder's opinion, they have superior knowledge of the actual site conditions pertaining the floor joists.

While there is a possibility of a protest due to one bidder being selected over the other, the risk of this happening is low due to the relatively small size of this project. In addition, both bidders are aware there are several more project opportunities to bid on with MERA in the future.

Both bidders have satisfied the requirements as established in the bid documents and appear to be capable of performing the work as required.