

FPC RFR Review Committee, 9.30.13, Worcester Union Train Station, Union Hall 9:30 - 11:30

In attendance:

Courtney Bourns, Kendall Foundation
Jessica Burgess, MDAR legal staff
Jeff Cole, Federation of MA Farmers Markets; FPC member
Brian Donahue, Brandeis University
Christa Drew, MA Food Policy Alliance; FPC Advisory Committee Member
Michael Hunter, Undersecretary, MOBD; FPC member
Betsy Johnson, Consumer Advocate
Vivian Morris, FPC member

Tara Zadeh, general counsel MDAR, started the meeting started at 9:50 AM. Two proposals were disqualified since one was not received on time and the other was incomplete. Cris Coffin, American Farmland Trust and FPC Advisory Committee member, recused herself based on the possible appearance of a conflict of interest. MDAR made a recommendation, based on the procurement officer recommendation, that the proposal from MA Farm Bureau be disqualified, since they were on the Advisory Committee who developed the RFR along with two entities listed in their proposal as partners.

The Review Committee is responsible to both ethics and procurement issues, being part of the Food Policy Council. The Review Committee was asked to identify a Chair and to vote on the recommendation.

Vivian Morris volunteered to be the Review Committee Chair for this Committee, which passed unanimously. The Committee agreed to make a determination about this bid, and then review the bids in accordance with the review criteria.

A point of clarification was made that the Review Committee needs to make a recommendation for three groups to present to the FPC - not the order of how the three were ranked.

Concern was expressed about disclosures relating to conflict of interest.

Brian Donahue checked previously with the state ethics commission, since one of the proposals has a consultant that he works with on regional plans, but would not receive financial gain through the award of the proposal.

Although Betsy Johnson is a member of the Springfield FPC, she had no involvement with SFPC's letters of support.

Vivian Morris has a connection with the Boston Collaborative for Food and Fitness, but has no financial interest.

FMFM is a member of the Boston Food and Fitness Collaborative, as well as a dues paying member of the MA Farm Bureau.

Vivian Morris read the letter from Michael Rock, MDAR CFO, with a recommendation to disqualify the Farm Bureau, bid since no individuation will receive an unfair advantage or benefit not available to others.

*To Tara Zadeh, General Counsel
From: Michael Rock, Chief Fiscal Officer
Re: RFR #AGR-FOODPLAN-2014
Date: September 27, 2013*

The procurement team at the Massachusetts Department of Agricultural Resources recommends disqualification of the Ma. Farm Bureau Federation bid on "request for Response" (RFR #AGR-FOODPLAN-2014), the "Massachusetts Food Policy Plan." Commonwealth of Massachusetts State Procurement laws "presume that Commonwealth funds will be expended so that in individual(s) or entity(ies) receives and unfair advantage, opportunity or benefit not available to similarly qualified or situated individuals or entities. The Legislature presumes that when funds are not designated to be to awarded, paid or otherwise made available to a specific individual or entity, that the funds will be disbursed by a department in an open public manner that supports fiscal accountability, efficient and effective government, and the achievement of the department's legislative mandate. To ensure that grants are disbursed in compliance with law, 815 CMR 2.04 requires an open public award process, "as determined appropriate by the department and in accordance with the department's grant funding authority."

Farm Bureau Federation and two other members of the Food Policy Council Advisory Board served in the development of the Request for Response (RFR). Members who work in the development of an RFR must restrict direct or indirect contact with any potential bidder(s) during procurement, or with any other person with significant connections or relationships with a potential bidder, in order to avoid compromising the procurement. Members must ensure that there is no obvious connection or prior personal or business relationships between those who develop the RFR and any potential bidders. Individuals(s) participating in the evaluation process must be free from conflict of interest and have no financial or personal interest.

Concern was raised that the potential participants are part of a small universe, so these types of issues are somewhat inevitable. The RFR was first drafted by the philanthropic committee, in part to avoid that conflict. However the Advisory Committee had a role in the content of the draft that went forward to the FPC, which was accepted with a subcommittee to address outstanding issues.

Discussion:

Concern was raised that the Review Committee did not have a clear understanding of their procurement responsibilities.

There is at very least, the appearance of a conflict favoring an organization as a respondent if you sit on the committee that drafted the RFR. Common procurement knowledge is that you cannot be on a team to develop a bid, and then respond to the bid. The bid would be disqualified. The Farm Bureau proposal should not go forward, based on the appearance of a conflict of interest. Farm Bureau did not formally recuse themselves. If it were to move ahead, it may be excluded from being awarded the contract. The process cannot be changed since there are qualified bids.

At past FPC and Advisory Committee meetings, members were advised of open meeting law and ethics issues. Copies were distributed.

Since the Review Committee was charged with making recommendations for finalists to the Council they needed to make this decision.

Brian Donahue made a motion that the FB proposal not move forward, which was seconded by Jessica Burgess.

Vivian Morris asked for a straw vote. All in favor of not allowing the FB proposal to move forward included Brian Donahue, Betsy Johnson, Jessica Burgess and Michael Hunter, opposed; Courtney Bourns; abstained: Christa Drew and Jeff Cole.

In the interest of time, choices were ranked:

- MA Area Planning Council 1,1,1,1,1,1,1,1
- Changing Tastes: 2,2,2,2,2,3,3,3
- Dialogos: 3,3,3,3,3,2,2,2
- FB and MAPC met the overall spirit

Proposal comments

Dialogos:

- Addresses need to develop local relationships, so would not start on the ground running
- A challenge to rethink the process, we might be looking at this backwards.
- Very sophisticated process, more information needed about content
- Good track record
- Stakeholder engagement lacking

Changing Tastes:

- Stakeholder engagement lacking
- Lack of local buy-in
- Good track record
- Budget includes high travel costs since they are not local. The budget doesn't include paying for the coordination of major community outreach and the learning journeys

MAPC:

- No mention of involving all the planning commissions - where does that leave the rest of the state. Would they reach out to their counterparts?
- Weak on federal proposals, weak on indicators, the web platform was weak
- The team is large so the facilitation for the team is important and should be carefully explained.
- The groups involved are strong to be able to implementation with working groups

- Hopeful to see leveraged resources in the amount of 86,500
- Good that the plan will be accessible to many different groups and a minority group will be hired for facilitation
- Strong to work locally with stakeholders, well grounded foundations – a challenge for outside entities.
- Good track record
- They didn't have as much detail but felt that they could work well with these goals, but the Council would be able to have a lot of involvement and it seemed very promising. Charge is to recommend up to three

General discussion

Can responders be granted access to the score sheets and review the comments? Score sheets could be scanned and send out to the applicants. MDAR legal will check into this.

Detailed metrics recommendations and matching funds were not a requirement so there is no need to detract points.

There is an opportunity to negotiate this in the contract. The budget numbers may shift based on their resources.

Next steps

All presenters will have 30 minutes to present their proposal and provide additional information re:

Coordination of key personal and regional coordination in Massachusetts

Policy formation including Federal policy needs, barriers and recommendations in relation to MA

Stakeholder participation outreach plan and communication

Facilitation of working groups and how to ensure their involvement

Details for the web platform

How Phase II interplays with future activities of the council

Identifying baselines for the evaluation process

The meeting ended at 11:50 AM