

FYI

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From: Bob Blumenfeld [mailto:BBLU@acaciapark.com]  
Sent: Sunday, January 28, 2007 9:36 PM  
To: Dodds, Vince; Cano, Larry  
Subject: Dando Fuerza RFP

Vince and Larry - below is a draft of an email I want to send to Commissioner Rubinstein, to be followed up by a phone call on the subject. It is self explanatory. If you have specifics you can add, please let me know. Bob

Jaime

Based on my experience in procurement and some research I have done, I believe it would probably be improper for the HACEP Parenting Services RFP to restrict bids to the "Dando Fuerza" product only.

HACEP is obligated under both federal and state law to ensure fair, open and competitive procurement. This concept exists under separate federal and state procurement laws that apply to HACEP equally.

My first concern is that by restricting the RFP to one "brand" or curriculum, there will be only one bidder. For procurement purposes, "competition" exists when two or more responsible bidders are willing and able to compete effectively to provide a particular good or service. If, for instance, Aliviane, is the only bidder, then HACEP will have to either (a) ask HUD for permission to procure with only responsive bidder or (b) re-bid the RFP a second time. So, if the RFP is very restrictive in the scope of services sought and draws only one bid, it may slow down the ultimate award and contracting process.

My greater concern, however, is that a single-brand-restrictive RFP violates most state procurement rules. State procurement rules provide that the procurement of all goods and services shall be conducted, to the maximum extent practical, in a manner providing full and open competition consistent with applicable administrative requirements. Analogous state procurement rules identify certain activities that restrict competition, among them "specifying a brand name product instead of allowing an equal product to be offered. If someone were to challenge a RFP that limits bidders to provide only one "brand" but not an equivalent brand, there is a real possibility of the RFP being deemed improper, and being set aside. If there was a challenge - whether it was successful or not -- this would delay the award and commencement of the contract award by several months.

It is my opinion that HACEP should open up the scope of parenting services that may be bid in response to the RFP. This will ensure that HACEP is following procurement laws and regulations, it will protect the agency from a challenge or scrutiny, and at the same time, it will probably speed up the time to a contract award and commencement of services.