

# The RFP's "Active-Active" Requirement

# RFP Section 7.4.1

## 7.4. Redundant Operation

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The proposed system must be designed to provide the ability to terminate SLP in 3 or more County locations. The system should be designed to provide the County with redundant operations with all three processors operating in an active-active mode. In the event of a failure of a call processor, all calls on the system must be maintained in the current state, including calls connected to a station, calls on hold or in queue, and calls connected to voicemail. Describe how a processor failure will impact in-process contact center and unified communications calls or contacts.

# Confirmation of Active-Active

- County admits it confirmed active-active requirement in responses to vendor questions and via an addendum to the RFP.

With respect to Questions 48 and 111 of Addendum No. 1, the first question was posed by a vendor who incorporated into the question an affirmative yet misleading statement regarding the County requiring active-active servers at three county-owned facilities. Unfortunately, rather than clarifying the RFP requirements, the County responded affirmatively asserting that active-active servers were required – which is contrary to the actual RFP language. The second question merely asked whether the airport was standalone. The County’s response was that “an active instance of the County’s system will be running at the airport.” That response could have been referring to an active-passive system just as easily as an active-active system, or, in fact, it could have been referring to some other type of system using the word “active” as a descriptor.

(County Position Statement, at 7)

# RFP 3.1.2

- County's addendum confirming active-active requirement removes any ambiguity surrounding RFP's active-active mandate.

## 3.1.2.

The pre-proposal conference will be held at the date, time, and location provided on the Information Summary Sheet. The purpose of this meeting will be to discuss with prospective proposers the work to be performed and to allow them to ask questions arising from their review of the RFP. The pre-proposal meeting is for information only. Any answers furnished will not be official until verified in writing by RFP Administrator. Answers that change or substantially clarify the RFP will be affirmed in writing and posted on the website via an addendum. The pre-proposal meeting will be the proposers' only opportunity to personally address questions concerning this RFP. Milwaukee County encourages participation at the pre-proposal conference of prime subcontractors.

# Importance of Active-Active

- Signifies how the phone system handles load sharing and how system reacts during peak phone usage and system failure.
- Active-active provides Country with industry best reliability and full access to telephone features – even in the time of unexpected high use or system failure. No system downtime.

# Mitel-TIG is an Unqualified Bidder

- The County admits that Mitel-TIG did not offer active-active

(See Attachment 06 at 31-33.) The County does not dispute that Mitel's proposal describes an active-passive system instead of an active-active system, as alleged by NEC. However, the County

(County Position Statement, at 3)

# Mitel-TIG is Prohibited from Receiving the Contract

- Wisconsin law, County Ordinance, and the RFP itself, preclude Mitel-TIG from receiving the contract.

## 14.1. Preliminary Evaluation

14.1.1. The proposals will be reviewed to determine if mandatory submission requirements are met. Failure to meet mandatory submission requirements will result in rejection of the proposal. Proposals that do not comply with submittal instructions established in this document and/or that do not include the required information will be rejected as non-responsive. The Proposer assumes responsibility for meeting submission requirements and addressing all necessary technical and operational issues to meet the objectives of the RFP.

- *Waste Mgmt., Inc. v. Wis. Solid Waste Recycling Auth.*, 84 Wis. 2d 462, 467 n.4, 267 N.W.2d 659 (1978) (requiring RFP compliance since “an agency of the government must scrupulously observe rules . . . which it has established [and] [w]hen it fails to do so, its action cannot stand and courts will strike it down.”)

# Mitel-TIG is Not a “Responsive Bidder” Under Milwaukee County Ordinance

- MCO 32.25(2)
  - (2) Purchases of supplies, materials, equipment and contractual services shall be based on competitive bids. Bids may be rejected when it is determined by the procurement director or his or her designee that to award a contract would not be in the best interest of the county. The method of evaluating bids and awarding contracts shall be stated in each bid document. Contracts shall be awarded to the lowest, qualified, responsive, responsive bidder. If equal low and responsive bids are received, the procurement director or his or her designee shall break the tie by a lot drawing in the presence of a buyer and another member of the procurement division at a specific time and date. The tied bidders shall receive written advance notice.
- “Responsive bidder” is a defined term, MCO 32.20(1)

(10) “Responsive bidder” means a person or firm which has submitted a bid which conforms in all material respects to the invitation to bid.



# NEC Should be Awarded the Contract

- The Committee must determine whether the County acted “according to law” or whether County’s decision was “arbitrary, oppressive, or unreasonable.” Failing to follow the RFP requirements is a violation of law.
  - The Committee has the authority to award the contract to NEC – the winning bidder which is legally compliant with the RFP requirements.
  - MCO 32.51(4)
- (4) The purchasing standardization committee shall **affirm, reverse or modify** the decision of procurement director or his or her designee and its decision shall be final.