

Date..... July 12, 2010.....

AFFIRMING HEARING OFFICER'S REPORT ON APPEAL OF RFP EVALUATION AND SELECTION COMMITTEE RECOMMENDATION FOR AWARD OF CONTRACT FOR THE PROVISION OF AUTOMATED ELECTRONIC SPEED & RED LIGHT ENFORCEMENT CAMERAS & CITATION PROCESSING SERVICES TO GATSO USA, INC., ACCEPTING PROPOSAL OF GATSO USA, INC., AND APPROVING AWARD OF CONTRACT TO GATSO USA, INC., AND AUTHORIZING THE POLICE DEPARTMENT TO NEGOTIATE, AND THE CITY MANAGER TO EXECUTE, A CONTRACT FOR THE PROVISION OF SAME

WHEREAS, on November 13, 2009, the Finance Department Procurement Division issued an RFP to solicit Automated Electronic Speed & Red Light Enforcement Cameras & Citation Processing Services (No. V10-041) ("the RFP") and received four proposals; and

WHEREAS, an Evaluation and Selection Committee comprised of Police Department and Engineering Department Traffic and Transportation Division staff members reviewed the proposals and recommended the selection of GATSO USA, Inc. (Andrew Noble, President), 900 Cummings Ctr 321-U, Beverly, MA 01915, as the highest scorer based on the weighting criteria described in the RFP; and

WHEREAS, an appeal of the Evaluation and Selection Committee's recommendation was filed by a proposer whose proposal was not recommended by the Committee, Redflex Traffic Systems, Inc., 23751 N. 23rd Avenue, Phoenix, Arizona 85085 ("Redflex"); and

WHEREAS, the Deputy City Manager, the Hearing Officer appointed by the City Manager, reviewed such appeal, a hearing was held on the appeal on April 21, 2010, and a report has been made overruling the objections of Redflex, pursuant to the RFP appeal process under Sec. 2-756 of the Procurement Ordinance and the RFP provisions; and

WHEREAS, on June 14, 2010 by Roll Call No. 10-994, the City Council continued consideration of this RFP appeal report and award of contract to the July 12 City Council meeting.

Date..... July 12, 2010

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that the City Council hereby affirms the report of the Hearing Officer overruling the objections of Redflex stated in its appeal.

BE IT FURTHER RESOLVED that the City Council hereby accepts and approves the proposal submitted by GATSO USA, Inc. for Automated Electronic Speed & Red Light Enforcement Cameras & Citation Processing Services and the Police Department is authorized to negotiate an agreement with GATSO USA, Inc. to provide such services for a period of three years with one three year renewal, subject to the review and approval as to form by the Legal Department, and the City Manager is authorized and directed to execute said agreement for and on behalf of the City of Des Moines, and the City Clerk is authorized to attest to his signature, and the Police Chief is authorized to execute one three year renewal option, subject to approval as to form by the Legal Department.

(Council Communication No. 10- 436)

Moved by _____ to adopt.

Approved as to Form:

Ann DiDonato
Ann DiDonato
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

Mayor

City Clerk

10-994
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April 29, 2010

Report to City Council Re: Administrative Hearing on Appeal of Redflex Traffic Systems, Inc. from Evaluation and Selection Committee Recommendation as to Selection of Best Proposal for Request for Proposals for Automated Electronic Speed & Red Light Enforcement Cameras & Citation Processing Services (No. V10-041)

Redflex Traffic Systems, Inc., 23751 N. 23rd Avenue, Phoenix, Arizona 85085 ("Redflex"), filed a written appeal, dated March 11, 2010 and timely received by the Procurement Administrator on March 11, 2010, to the Notice of Intent to Award issued by the Procurement Administrator informing the proposers of the Evaluation and Selection Committee's ("Committee") recommendation to be made to the City Council to award the Automated Electronic Speed & Red Light Enforcement Cameras & Citation Processing Services for the City of Des Moines Police Department to GATSO USA, Inc ("GATSO"). A Redflex supplemental appeal letter dated March 23, 2010 was also timely received by the Procurement Administrator. The supplemental appeal letter was allowed because Redflex did not receive a complete copy of the GATSO proposal and presentation documents made pursuant to their Iowa Code Chapter 22 request for records until March 16. This delay was due to the fact that GATSO had marked portions of its proposal and all of its presentation materials as "confidential" and the process outlined in section 8 of the Standard Provisions and Requirements section of the RFP. In response to this appeal, a notice of hearing was sent to all four proposers and to the Committee members. Deputy City Manager Merrill Stanley was selected by the City Manager to be the hearing officer. The hearing was held on April 21, 2010 at 2:30 pm in the City Council Chambers.

This appeal is guided primarily by sections 13 and 14 of the Standard Provisions and Requirements section of the RFP and sections 2-755 and 2-756 of the Des Moines Municipal Code:

13. Evaluation and Selection Committee; Procedure for Evaluation and Recommendation as to Selection of Best Proposal.

- (a) Competing proposals submitted in response to the RFP shall be evaluated by an evaluation and selection committee appointed by the director of the department sponsoring the RFP. The evaluation and selection committee shall, at the department director's discretion, be composed of city staff members, consultant representatives if a consultant was utilized in formulating the RFP, and other persons deemed knowledgeable of the goods and/or services being procured. The evaluation and selection committee ("committee") will utilize the evaluation criteria and scoring methodology set forth in this RFP in making its determination as to the best proposal.
- (b) Upon completing its evaluation and the scoring of competing proposals, the committee shall make a written report of its determination and recommendation as to the selection of the best proposal. The report will be filed with the department director and Procurement Administrator, and the report and Notice of Intent to Award will be provided to all competing proposers by ordinary mail, FAX or e-mail at the address, FAX number or e-mail address shown in their proposals at least 5 days prior to the appeal deadline set forth in the Notice of Intent to Award.

14. Appeal of Evaluation and Selection Committee Recommendation - Proposer Objections to be Submitted in Writing - Resolution of Proposer Objections.

(a) Opportunity for Proposers to Appeal Evaluation Committee Recommendation as to Selection of Best Proposal - Required Submission in Support of Objection.

A proposer who is aggrieved by the evaluation and selection committee's determination and recommendation as to the selection of the best proposal, as set forth in the committee's report, may appeal such determination and recommendation by filing a written objection thereto with the Procurement Administrator within the appeal deadline set forth in the Notice of Intent to Award. Such objections may be filed in person or by mail, FAX or e-mail. In its written objection, the appealing proposer shall set forth all of its objections to the committee's recommendation and all arguments in support thereof, and shall attach thereto all documentation supporting its objections which it intends to rely on in making its appeal. The appealing proposer may request a hearing on its appeal, but the determination whether to hold a hearing or to determine the appeal on the basis of the record made in the written objection shall be discretionary with the City Manager. Alternatively, the City Manager may, after the issuance of an RFP, authorize use of the alternative appeal procedure provided in section 2-757 of the Des Moines Municipal Code where it is determined that use of the appeal procedure provided in this section will unduly delay the City's procurement of necessary goods and/or services. The City Manager's decision, made after the issuance of an RFP, to utilize this alternative appeal procedure shall be communicated to all proposers prior to or contemporaneously with the provision of the report of the evaluation and selection committee and Notice of Intent to Award.

(b) City Manager or Hearing Officer to Review Proposer's Objections; Hearing Optional. Upon the timely filing of a written objection by an aggrieved proposer as above provided, the City Manager shall review such objection and determine if a hearing will be held to assist in determining the appeal. The City Manager shall likewise determine if the appeal will be determined by the City Manager or if it will be determined by an appeal officer selected by the City Manager. If the City Manager decides that the appeal will be decided pursuant to an appeal hearing, the City Manager shall set the time, date, and place of a hearing on such objection, and shall cause written notification of the hearing to be provided to the appealing proposer and all proposers. The City Manager may set for hearing at the same time, date, and place the objections of two or more proposers. Upon the request of an objecting proposer, the hearing may for good cause shown be rescheduled, provided that the hearing is held not more than 10 days after the filing of the written objection. In the appeal, the burden of persuasion shall be upon the appealing proposer. If a hearing is held, the appealing proposer shall be required to present its evidence first, and shall be entitled to examine the chair of the evaluation and selection committee, or such other member as may then be available. The hearing shall be electronically recorded, and upon the prior approval of the City Manager or appeal officer, the appealing proposer may at its expense cause the proceedings to be reported and transcribed. A transcription of the proceedings shall be made available to the City at no cost. For purposes of this appeal provision, the Deputy City Manager may act in the absence or unavailability of the City Manager.

(c) Report of City Manager or Hearing Officer to City Council and to Appealing Proposer Upon completing the review of the appealing proposer's written objection, or upon the conclusion of the hearing, the City Manager or the designated hearing officer shall make a written report setting forth the determination of the appeal. All objections made by the appealing

proposer shall either be affirmed or overruled. The report shall immediately be forwarded to the appealing proposer.

If an appealing proposer's objection is affirmed, the City Manager or hearing officer shall reject the recommendation of the evaluation and selection committee, and shall direct the committee to reconvene to reevaluate the proposals submitted in response to the RFP. In conducting its reevaluation, the committee shall consider all objections affirmed by the City Manager or hearing officer. Upon completing its reevaluation, the committee shall make a written report of its determination and recommendation as the selection of the best proposal, and shall file the report with the City Manager and mail same to competing proposers. Such determination and recommendation shall be subject to appeal as herein provided.

If an appealing proposer's objection is overruled, the City Manager's or hearing officer's report shall be forwarded to the City Council, and the appealing proposer and all competing proposers shall be given written notification of the date of the Council meeting at which said report and the recommendation of the evaluation and selection committee will be considered by the City Council.

(d) City Council's Consideration of City Manager's / Hearing Officer's Report and of the Appealing Proposer's Objections.

When the City Manager's or hearing officer's report comes before the City Council for consideration, the City Council may affirm or overrule the findings and determination of the City Manager or appeal officer as set forth in said report. The City Council may, in its discretion, hear presentations by the appealing proposer and by competing proposers with respect to the appealing proposer's objections, and with respect to the findings and determination of the City Manager or hearing officer. If the City Council agrees to hear such presentations, it may limit the length of such presentations, and all proposers will be given an equal opportunity to speak. The City Council's decision shall be considered final.

If the City Council votes to overrule the report of the City Manager or hearing officer, the recommendation of the evaluation and selection committee shall be considered rejected, and the City Council may direct the committee shall reconvene to reevaluate the proposals submitted in response to the RFP, or the City Council may award the contract as it determines appropriate.

If the City Council votes to affirm the report of the City Manager or hearing officer, it shall then take up and consider the recommendation of the evaluation and selection committee.

(e) The City Council's decision shall be considered final.

RFP Background

On November 13, 2009, the City of Des Moines Procurement Division issued an RFP for Automated Electronic Speed & Red Light Enforcement Cameras & Citation Processing Services (No. V10-041) ("the RFP"). An Addendum #1 was issued on November 30, 2009. The deadline for proposal submission was December 23, 2009. Three proposals were received: From Reflex, GATSO and Affiliated Computer Services, Inc. The RFP evaluation criteria are as follows:

5.0 PROPOSAL EVALUATION CRITERIA

Proposals will be opened at the date and time specified and each company will be recorded as a respondent. All proposals will become the property of the City and the proposer shall

identify any part of its proposal deemed to be confidential proprietary information per section 8 of the Standard Provisions and Requirements section of this RFP.

Proposals will be reviewed by an Evaluation and Selection Committee that will evaluate each proposal according to the selection criteria outlined below.

- 5.1 Company experience 30 points
- 5.2 Confirmation of references and reference information 20 points
- 5.3 Ability of the company to provide resources to the project 15 points
- 5.4 Successful systems installed 10 points
- 5.5 Revenue/cost (See attachment 8) 25 points
- 5.6 Local Preference 1 point

6.0 INTERVIEW AND SELECTION PROCESS

After the initial review of the submitted proposals, interviews may be requested with one or more of the proposers responding to the RFP. All costs associated with preparing a response or attending an interview are the responsibility of the proposer.

If interviews are conducted, the proposals will be evaluated by the Evaluation and Selection Committee according to the criteria outlined below

- 6.1 Company experience 30 points
- 6.2 Confirmation of references and reference information 10 points
- 6.3 Ability of the company to provide resources to the project 10 points
- 6.4 Successful systems installed 5 points
- 6.5 Company interview and presentation 20 points
- 6.6 Revenue/cost sharing plan (see attachment 8) 25 points
- 6.7 Local Preference 1 point

On March 4, 2010, the Procurement Administrator sent a notice to all proposers that the Committee had selected the proposal of GATSO and would make this recommendation to the City Council at the April 26 Council meeting. The proposers also received the Committee's recommendation, or scoring summary sheet. The Committee's scoring sheet indicated that GATSO had received a total of 96.4 points and that Redflex received a total of 92.4 points.

Hearing

The record in the hearing consisted of the RFP, including Addendum No. 1, the Redflex and GATSO proposals, including presentation materials, the Committee's Final Report and Recommendation, the Redflex March 11, 2010 appeal letter and March 23, 2010, supplemental appeal letter, the Redflex Supplemental Appendix in Support of March 11, 2010 Appeal and March 23, 2010 Supplement, and the Des Moines Municipal Code.

The following persons were present at the hearing: Hearing Officer/Deputy City Manager Merrill Stanley; Committee chair Captain Douglas Harvey; Committee members Vince Carter, Max Halverson, Scott Baker, and City Traffic Engineer Gary Fox; Redflex representative Mark Escott and

attorney Rebecca A. Brommel representing Redflex; GATSO representatives Richard Kosina and Paul Bazzano; and CMA General Counsel Don Wahl; Procurement Administrator Mike Valen; and Assistant City Attorney Doug Philip, and Assistant City Attorney Ann DiDonato.

The hearing was electronically recorded. Redflex and the Committee were each given 15 minutes to make opening and closing statements. The Hearing Officer questioned Redflex's representative. Redflex was given the opportunity to ask questions directed to all who testified and to the present Committee members and did direct questions to the Committee chair. The GATSO representative and CLA attorney also presented argument on behalf of the Committee recommendation.

Findings and Decision on Objections Raised by Redflex

In determining this appeal, it must first be decided what are the "objections" and "arguments in support thereof" which may be considered in this appeal. As stated on the first page of this report, section 14 of the Standard Provisions and Requirements section of the RFP and section 2-756(a) of the Municipal Code provides in relevant part that:

In its written objection, the appealing proposer shall set forth **all of its objections** to the committee's recommendation **and all arguments in support thereof**, and shall attach thereto all documentation supporting its objections which it intends to rely on in making its appeal.

I consider below each of Redflex's objections raised in its appeal. Redflex has the burden of proving its objections by a preponderance of the evidence. Based on this standard and upon review of the written appeal materials, the written record, and hearing evidence including the testimony and arguments presented at the hearing, I hereby overrule Redflex's objections:

1) Reflex has more experience than GATSO USA. GATSOMETER has been in business since 1958, and produced the first speed camera in 1960. GATSO USA was established as a subsidiary of GATSO in 2007. Redflex asserts that only the experience of GATSO USA should be considered since the proposal was submitted under the GATSO USA name. I find that, based upon the statements of the committee chair and the GATSO proposal, the experience of GATSOMETER will reasonably carry over to GATSO USA and is relevant to the City of Des Moines contract. Redflex additionally argues that most of GATSO installations involve the now outdated wet film technology rather than digital cameras. The Committee chair testified that the Committee considered it reasonable for most of a company's experience to be with the older technology since it had been around for many more years. This objection is overruled.

2) Redflex has more successful installs in the United States. Ruling: Redflex asserts that Redflex should have received a perfect 5.0 out of 5.0 possible points in the category of "Successful Installs" since they had no unsuccessful installs and that they have a greater number of successful installs than GATSO. GATSO received a score of 5.0 in this category. Redflex is correct that they have more installs than GATSO in the USA. However, the Committee believes the Redflex technology used in the installs is not up to the standards that GATSO utilizes. So, the question is more installs vs. more successful installs.

I find that the Committee was reasonable in determining that better technology will lead to a more successful install. This objection is overruled.

3) Redflex should have scored higher in the revenue category.

Redflex asserts that the Committee may have estimated GATSO revenue projections based on an expanded program while keeping the Redflex estimate at the amount stated in their proposal. This was not the case. Estimated revenues from both proposers were calculated using amounts provided in their respective proposals. In addition, the City's Procurement Administrator verified that the points awarded to each proposer for this criteria were calculated using the correct formula. Redflex's further apparent argument that the GATSO technology will result in a lower number of citations being issued was without support in the record. This objection is overruled.

4) Redflex has significantly higher ability to provide resources to the project.

This assertion is based on the fact that Redflex employs individuals to conduct tasks that GATSO outsources and that Redflex has more employees in the USA than GATSO. The RFP indicates no preference for the provision of services within one company vs. through outsourcing arrangements. The Committee chair stated that the Committee was aware that GATSO had less employees and felt that the company providing the processing services, CMA, was an experienced company. On a second point, Redflex asserts that GATSO does not have sufficient access to motor vehicle registration data. However, the Committee chair testified that the Committee had reviewed this matter and is confident that GATSO has adequate access to motor vehicle registration data using NLETS through their strategic partner, CMA. On a third point, Redflex asserts that they have more financial capacity and ability to assist in legal challenges than GATSO. While GATSO may have more financial resources, the Committee Chair testified that the Committee felt that the financial capabilities of GATSO were adequate and the City was protected by the insurance required in the RFP. The Committee also felt that Redflex's assistance defending legal challenges was of benefit to their clients, but was more directly a case of them protecting their own income stream and was a benefit that would cost the City additional money to use. This objection is overruled.

5) Redflex technology is better than that offered by GATSO USA.

For the technology question I rely on the expertise that resides in the Committee. The Committee chair testified that the Committee has reviewed the technology used by the Redflex and GATSO systems and they prefer GATSO. Redflex did not meet its burden of proof that the Redflex technology was superior to GATSO technology. This objection is overruled.

6) Based upon available information, Redflex believes that GATSO USA will not directly provide the services requested by the City's RFP.

Redflex asserts that GATSO USA will not directly provide requested services, meaning GATSO will not provide the services with their own employees. This is the case as is stated in the GATSO proposal. Redflex states that GATSO was less than forthcoming with this fact by only mentioning it once on page 49 of their proposal. GATSO, in fact, stated that CMA would be their strategic partner handling Violation Processing Subcontracting on page

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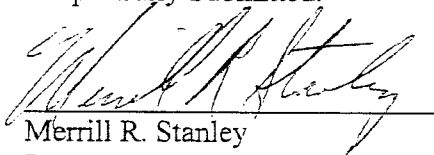
76 of their proposal. The City is interested only that the services be provided. There is no requirement that the services be provided entirely by one company. The Committee chair testified that the Committee was aware of the extent of the services to be provided by CMA in making their scoring decision. This objection is overruled.

7) Reflex has more relevant experience in North America than GATSO USA. This assertion is a subset of assertion number 2 above. This objection is overruled.

8) GATSO technology has been the subject of a losing court case. Reflex asserts that a court case lost in 2001 in California suggests the GATSO systems are questionable as far as reliability and trustworthiness. As stated by Assistant City Attorney, Doug Philip, the California case involved wet film technology vs. the digital technology being proposed by GATSO, and the City was found to have not followed the State Code in their handling of the case. I believe this issue to be irrelevant to this RFP process. This objection is overruled.

This appeal report shall be forwarded to the City Council along with the Committee's recommendation. The City Council may affirm or overrule the findings and determinations in this report.

Respectfully Submitted:



Merrill R. Stanley
Deputy City Manager

CC:

- Mark Etzbach, Reflex Traffic Systems, Inc.
- Paul Bazzano, GATSO USA
- Jason Stergion, Affiliated Computer Services
- Greg Parks, American Traffic Solutions
- Richard A. Clark, City Manager
- Judy Bradshaw, Police Chief
- Attorney Rebecca A. Brommel, Brown Winick
- Captain Douglas Harvey, Evaluation and Selection Committee Chair
- Mike Valen, Procurement Administrator

" WITHDRAWN "

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★ Roll Call Number
10.995

Agenda Item Number
85A

Date June 14, 2010

Communication from Redflex Traffic Systems, Inc., c/o Brown Winick Law Firm.

Moved by _____ to receive, file and

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk

10-995
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Rauh, Diane I.

From: website@dmgov.org
Sent: Monday, June 07, 2010 8:41 AM
To: CouncilSpeak
Cc: CityClerk
Subject: Request to Speak Before the City Council - form submission

Full Name: Redflex Traffic Systems, Inc. c/o BrownWinick Law Firm
Address: 666 Grand Avenue, Suite 2000
City: Des Moines, IA
State: IA
Zip: 50309
Phone: (515)242-2400
Email: beltrame@brownwinick.com
Speaker(s): Marc Beltrame
Meeting Date: Monday, June 28, 2010
Regarding: FOR JUNE 14, 2010 MEETING

10-995



Brown, Winick, Graves, Gross,
Baskerville and Schoenebaum, P.L.C.

666 Grand Avenue, Suite 2000
Ruan Center, Des Moines, IA 50309-2510

June 7, 2010

direct phone: 515-242-2452
direct fax: 515-323-8552
email: brommel@brownwinick.com

Mayor Frank Cownie and
Members of the Des Moines City Council
c/o City Clerk
400 Robert D. Ray Drive
Des Moines, IA 50309

**Re: June 14, 2010 Council Meeting
Agenda Item: RFP V10-041 (Enforcement Cameras)**

FILED
CITY CLERK
DES MOINES, IOWA
JUN - 7 PM 1:18

Dear Mayor and Members of the Council:

At your June 14, 2010 meeting, you will be considering the Report of Deputy City Manager Merrill R. Stanley, which was issued on April 29, 2010, related to RFP V10-041 ("the Report"). The Report affirmed the Selection Committee's selection of GATSO USA ("GATSO"). For a number of reasons, the City should reject such Report and the recommendation of the Selection Committee and select Redflex Traffic Systems, Inc. ("Redflex") as the provider of enforcement cameras for the City of Des Moines.

In order to analyze the decision of the Selection Committee and the Report of the Deputy City Manager, we believe it is necessary for you to understand exactly who will be providing all of the required services. The City's enforcement camera program will only be as good and successful the the technology, the support services and the back office processing provided by the outside company. Redflex, who is a pioneer of the fully turnkey digital enforcement camera program the City seeks, is the largest and longest provider of such services. In comparison, GATSO has little experience and in fact, does not even directly provide a number of the services that are vitally important to a successful program.

There are two fundamental problems with GATSO, the entity recommended by the Selection Committee. First, GATSO did not satisfy the minimum requirements the City clearly stated in its RFP. GATSO did not show that it or its "strategic partner" CMA Consulting, Inc. ("CMA") had the required two years minimum experience in automated electronic traffic control and citation processing. Furthermore, the Committee did virtually no research regarding CMA or its background, yet this is the company who will be providing the City with virtually 100 percent of the "back office" processing, which includes the following: obtaining photos of violations, reviewing violations, retrieving motor vehicle information from the secure source, printing citations, mailing citations, storing and retrieving all violations, collecting payments and responding to citizen inquiries. As will be described more fully below, CMA has issues in its

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background that should be questioned, especially when it will be the entity actually providing the bulk of the services. In addition to this clear deficiency, GATSO also failed to timely provide the required financial statement, and absolutely no financial statement or information was obtained from CMA.

Second, the "formula" used by the Selection Committee to determine the points awarded in the Revenue category was based upon the number of citations produced by Redflex in Clive. In other words, the Committee used Redflex's results to analyze the proposal of a competing provider. It is wholly inappropriate to use Redflex's results to analyze the revenue to be produced under GATSO's proposal, because GATSO has a substantially lower success rate for violations that actually result in citations (14 percent compared to Redflex's 66 percent). In addition to the inaccurate formula used by the Committee, there are a number of other important factors that lead to the clear conclusion that Redflex is the best choice. Each of these issues will be addressed more fully below.

I. GATSO Did Not Meet the Minimum Requirements of the RFP.

GATSO failed to satisfy two minimum requirements of the RFP. Section 3.0 of the RFP states that the "successful contractor *must* have the following *minimum* business experience" and provides the following items that are relevant here:

3.1 The contractor must have at least two years minimum experience in automated electronic traffic control and citation processing. ...

3.4 The contractor must be able to prove fiscal stability to the City by providing an annual budgetary report or positive financial statement from a reliable bank or accounting firm. The City must be confident that any contractor hired by the City for an extended period of time has the fiscal capability to maintain their service.

A. GATSO and its "Strategic Partner" CMA do not have the required two years minimum experience in automated electronic traffic control and citation processing.

With regard to the Section 3.1 requirement, GATSO has yet to provide information that CMA, who is generally described by GATSO as their "strategic partner", has the required two years of experience in automated traffic control and citation processing. As indicated in Redflex's letters of appeal, CMA is only mentioned in GATSO's application and presentation materials and no specific information was given regarding the number of years CMA has been involved in automated traffic control and citation processing. Even when CMA and GATSO had the opportunity to provide specific information regarding their experience at the April 21, 2010 hearing, they did not do so. CMA's representative only generally discussed its experience in other types of processing, but did not provide any specific information regarding its experience in traffic control and citation processing. Because GATSO has only been offering and providing

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a full turn key operation, which includes the processing from violation to citation and collection, for short period of time in the United States, it is clear that neither CMA nor GATSO has the required minimum two years of experience.

As admitted by the Committee Chair, the “back office processing” is vitally important. See Transcript, p. 33. Back office processing includes identifying the registered owner of the vehicle, processing the citations, mailing the citations, and accepting and processing payment of the citations. These processes also include training and interacting with City officials to review and approve any violations before citations are issued, as well as providing supporting testimony to establish a chain of custody as to the processing of the photographs into citations. In short, there is no photo enforcement program and thus, no revenue, without standardized and valid processing of the photos and subsequent citations. These are all services that CMA, not GATSO, will provide.

When asked details about CMA and its role in GATSO’s proposal, the Committee Chair admitted the Committee did virtually no investigation. See Transcript, p. 28. They did not inquire as to CMA’s photo enforcement experience, did not inquire into CMA’s other “processing” experience, and did not investigate CMA’s financial stability. See Transcript, pp. 28-29. The Committee also did not inquire into the relationship between CMA and GATSO. Nothing specific about the length, nature, expected term or any other details about this relationship have been revealed. See Transcript, p. 37. In fact, CMA cannot even identify how much of its revenue comes from its partnership with GATSO other than to describe it as “limited.” See Transcript, p. 50.

Although CMA will be providing a very important and substantial part of the services under GATSO’s proposal, the Committee left it up to CMA to describe at the hearing whether they could meet requirements such as processing data, initial mailings, and ability to accept payments on line or through a lock box. See Transcript, p. 24. These are items that the Committee should have been certain of when selecting GATSO. CMA was not even present at GATSO’s presentation to the City, submitted no information regarding their processes and even at the April 21, 2010 hearing did not address these issues. See Transcript, p. 29.

Neither the Committee nor the Report addressed the questionable background of CMA, whose CEO was indicted on federal charges and was involved in inappropriately paying a New York legislator to secure legislation that directly favored their company. See March 23, 2010 Supplemental Appeal letter, p. 4, Exhibit P. These are issues that should not be taken lightly when entering a relationship where CMA will serve an important role.

B. GATSO did not satisfy the requirements related to financial statements.

With regard to the Section 3.4 requirement relating to proof of financial stability, Addendum #1 to the RFP further clarified that annual financial statement must be certified by an independent, third party accounting firm. GATSO failed to timely satisfy this requirement as to its own

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financial statement and provided no information regarding CMA's financial stability. Thus, GATSO should have been disqualified.

The deadline for applying for the RFP was December 23, 2009. In documents that were disclosed to Redflex *after* the hearing in front of the Deputy City Manager, GATSO clearly did not provide the required information before December 23, 2009. GATSO produced an email and admitted in court proceedings¹ that it had not submitted the required financial statement on or before December 23, 2009. It was only after being contacted by Vince Carter on January 7, 2010 that GATSO provided the required financial statement. While this fifteen (15) day delay may not seem significant, it is important for two reasons. First, GATSO was given an opportunity to correct its submission in order to meet the minimum requirements. There is no basis for allowing them additional time to comply with clearly stated requirements. Second, the RFP rules clearly state that the Procurement Administrator or his/her designee will serve as the "sole point of contact for questions, objections, *informational requests* and requests for clarification or interpretation during the RFP process."² The purpose of this rule is to "ensure an open process and the provision of equal knowledge and opportunity to all potential proposers." (Standard Provisions and Requirements for RFPs, ¶ 3). The informational request was never routed through the City's Procurement Administrator, and it is clear that the Procurement Administrator did not designate Mr. Carter as his designee. Michael Valen, as the Procurement Administrator, stated at the hearing that he had not seen or received GATSO's financial statement.

In addition to this untimely disclosure, there has been absolutely no information provided to the Committee regarding CMA's financial stability. As stated above, CMA is providing a significant and vital portion of the services required under the RFP, yet the Committee did no research into CMA's financial stability. Although the Committee Chair attempted to sweep the financial stability requirement under the rug by asserting that GATSO had the required insurance, the insurance requirement is irrelevant. As the City's own attorney stated in Court, the financial stability requirement was separate and distinct. The insurance required was for general liability, not a bond type insurance requirement, and the purpose of requiring financial statements was to ensure that the company performing the work had the necessary financial resources to complete the project. The Committee could not have fully analyzed the financial stability of GATSO without analyzing the financial stability of CMA, the party providing a majority of the RFP's requirements.

¹ GATSO filed a proceeding in Polk County District Court to enjoin the release of its financial statement under Iowa Code chapter 22. The information regarding the date of GATSO's submission of their financial statement was in an email attached as Exhibit A to an Affidavit of Andrew Noble, GATSO's President, and its counsel also specifically stated on the record that GATSO did not submit the financial statement until after it was contacted by the City in January, 2010. A copy of the Andrew Noble Affidavit and the email between GATSO and Vince Carter is provided with this letter.

² In addition to this requirement, the City's Municipal Code states that it shall be the responsibility of the Procurement Administrator to determine if all RFP requirements have been met and if all required submittals have been made by proposers. See Mun. Code § 2-755(c).

II. The Committee Utilized an Inaccurate Formula for Determining the Scoring in the Revenue Category.

At the hearing on April 21, 2010, Committee Chair Douglas Harvey produced a calculation sheet describing how the Committee determined the points awarded in the "Revenue" category. This information, which should have been provided to Redflex pursuant to its prior public information requests, shows that the Committee's calculations were based upon incorrect assumptions. This summary and scoring formula, which was based upon figures obtained from the City of Clive, has two incorrect assumptions.

First, the Committee's revenue projections were based upon the determination that Clive had four intersections, while the City will have five. While this is correct, the proper manner to determine the number of citations to be issued is based upon the number of cameras, not intersections. It is the individual cameras that capture violations and the Clive numbers are based on a per camera analysis, not a per intersection analysis. Clive actually has six cameras, which is one more than the City of Des Moines will have.

Second, the City of Clive utilizes Redflex as its provider, and as Mr. Harvey recognized, has "a better system of capturing a lot of red light violators." See Transcript, p. 17. While it would be appropriate to use these numbers as a basis for estimating the revenue to the City under Redflex's proposal, it is absolutely outrageous to use it to analyze GATSO's proposal. GATSO's technology has a significantly higher fail rate than Redflex's technology (14 percent versus 66 percent), and such fail rates greatly reduce the actual revenue generated for the City. If GATSO's fail rates are taken into account, Redflex clearly provides more monthly and annual revenue to the City.

City of Clive³

Total Detections	13,164 (183 per month)
Total Violations	9,694 (135 per month)
Total Citations	8,739 (121 per month)

This means that approximately ninety (90) percent of all violations become citations, and roughly sixty-six (66) percent of all detections become citations.

According to a news article regarding GATSO's technology in Dallas, Texas, GATSO had 934,427 detections, but only issued 134,998 citations across sixty-six camera systems. See March 11, 2010 Appeal Letter, Exhibit I. This means that only about fourteen (14) percent of

³ These are the actual number of detections, violations and notices printed for the year 2009 in Clive. "Total violations" means the number of detections that are not rejected (ie: safe turns on red, emergency vehicles, funeral processions). "Total citations" means the violations that are accepted by the police department and issued as tickets.

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GATSO's detections result in actual citations. Furthermore, these numbers show that GATSO is only capturing about fifty (50) more violations per month per camera than the City of Clive, yet Dallas has a much larger population (1.3 million versus 15,000). Redflex's program in another Texas city that is about 1/10th the size of the Dallas' program produces double these numbers. If the actual detection rates of GATSO are taken into account, there are fewer citations issued and thus, less revenue to the City:

	<u>GATSO</u>	<u>REDFLEX</u>
Total Detections (per camera per month)	183	183
Total Citations Printed	26 (14 %)	121 (66 %)
Total Paid Citations	22 (85% of 26)	103 (85% of 121)
Gross Revenue ⁴ (per camera per month)	\$1,430	\$6,695
Vendor Fees (per camera per month)	\$594	\$4,892.50
Monthly net return (per camera)	\$836	\$1,802.50
Annual net return (per camera)	\$10,032	\$21,630

As this shows, simply having the lowest fee per citation is not automatically the best choice. When the correct assumptions and numbers are utilized, Redflex provides higher revenue to the City. If the Committee had properly taken the actual detection rates of GATSO into account, Redflex would have received a perfect score in the Revenue category (25 points), GATSO would have received a lower score and Redflex would have ultimately outscored GATSO and been the successful bidder.

III. Redflex Is Clearly the Better Candidate for the City's RFP.

In addition to the issues set forth above, a review of the RFP's other categories (i.e., company experience, successful installs, ability to provide resources) shows that Redflex is clearly the better choice for the City's needs. As outlined more fully in Redflex's letters of appeal, which are provided herewith, Redflex is the better choice due to the following:

⁴ Based upon a \$65 fine amount, as stated in the RFP.

- Redflex has over 20 years of experience in the United States providing full turn key operations (ie: from camera installation through the processing of citations) to cities like Des Moines. In comparison, GATSO has only been operating as a full turn key operation in the United States since 2007 and has little experience in providing full operations, which includes everything from capturing the violation to collecting the fines for the citations.
- Redflex has a greater number of installations than GATSO. While Redflex has over 250 contracts in the United States, GATSO has approximately twelve (12). Thirty-nine (39) of Redflex's United States contracts are fixed and/or mobile speed contracts. In comparison, GATSO was just awarded their first two programs in the past few months, which gives them virtually no operating history in this arena.
- Although the Committee generally claimed that GATSO's technology was "better", it provided no explanation for this conclusion. In comparison, Redflex submitted detailed information regarding its technology and the issues faced by other cities using GATSO's technology. See March 11, 2010 Appeal Letter, p. 6, Exhibits I, J and K. Simply because GATSO's parent company developed the first traffic camera (the "Gatsometer") does not mean it is providing the best technology available today.
- A majority of GATSO's experience is in the area of 35 mm wet film cameras, rather than digital technology. The installation, use and processing of these two types of technologies is completely different and thus, GATSO's experience in this area is irrelevant to their ability to provide Des Moines with the digital technology requested. When asked about these issues in the hearing, Mr. Harvey provided no reason for why this distinction was ignored. The only response was that GATSO could better respond as to why their experience in 35 mm wet film was relevant "could be best answered by GATSO at a later time." See Transcript, p. 16; see also Transcript, p. 23 ("[Harvey:] Point 5, Reflex has better Technology. I don't know where I could come up with that alternative. If Mr. Stanley allows them to talk, then they can discuss their technology parts but the only thing I can say to that is that the Committee disagreed..."). GATSO never addressed this issue at the hearing nor in any of their submissions to the City.
- Redflex has a greater ability to provide the resources necessary to the City of Des Moines. Redflex has a greater number of employees in the United States that are fully dedicated to photo enforcement. In contrast, GATSO has only twelve (12) employees in the United States and while CMA has 400 employees, their counsel admitted that CMA's revenue from photo enforcement back office processing is limited. See Transcript, p. 50. In other words, the employees that CMA has dedicated to photo enforcement processing for GATSO would be a limited number of their 400 employees. Furthermore, with two companies involved (GATSO and CMA), there is likely to be confusion about who to contact when a problem arises. While GATSO assured the City at the hearing that they would be fully responsible for taking these phone calls, how can they respond to any back

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office processing questions when all such work is done at CMA in New York? Is “call CMA” a sufficient response? We don’t think so, and that is not how Redflex does business.

IV. The Piecemeal and Incomplete Provision of Documents in Response to Redflex’s Information Requests Have Hindered Redflex’s Appeal.

Redflex timely issued Iowa Code chapter 22 requests to the Procurement Administrator and, at Mr. Valen’s suggestion, to the head of the Selection Committee on March 4 and March 8, 2010, respectively. These letters requested all documents related to the RFP, including, but not limited to applications, proposals, presentations and all documents related to the evaluation of such proposals. In response to these requests, Redflex was provided with GATSO’s application and presentation materials (after GATSO waived its confidentiality restrictions), and Redflex based its appeal on the documents provided.

As described above, Redflex was told at the hearing that GATSO did provide a financial statement and that statement had not been provided to Redflex. At the hearing, it was also revealed that the Committee had used a formula calculation to determine the points awarded in the “Revenue” category. The Committee Chair, who had directly received an Iowa Code chapter 22 request, provided a document showing these calculations once the hearing was already underway.

Due to these revelations, Redflex issued another Iowa Code chapter 22 request on April 30, 2010. In response to the April 30 request, Redflex was provided additional documents, which primarily consisted of emails. Many of the emails were missing attachments, and there still appeared to be individuals involved in the RFP review and assessment that had not provided any emails or documents. After a follow up request as to specific items, Redflex was provided with additional documents on May 11, 2010.

Even after these additional documents were provided, there are some significant documents that appear to be missing, even though they should clearly have been provided in response to Redflex’s initial Iowa Code chapter 22 request. For example, the individual scoring sheets of the Committee members, except those of Gary Fox, have not been provided. Also, there are no emails from Vince Carter, even though he clearly directly participated in obtaining additional information from GATSO. See Email dated January 8, 2010 from GATSO to Vince Carter, provided herein. It is hard to discern what else might not have been provided, and the delayed and piecemeal release of information from the Committee has hindered Redflex’s ability to gather the information necessary for its appeal.

V. Conclusion.

As set forth herein and in the previous submissions in support of their appeal, Redflex has clearly met its burden. Accordingly, the City Council should, pursuant to Section 14 of the Standard

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Provisions and Requirements section of the RFP and Des Moines Municipal Code sections 2-755 and 2-756, vote to overrule the Report, reject the recommendation of the Committee and award the contract to Redflex. Redflex intends to submit a request to speak at the June 14, 2010 City Council meeting and would be happy to answer any questions you may have. Thank you.

Very truly yours,



Rebecca A. Brommer

RAB:hs
Enclosures

cc: Mark Etzbach, Redflex Traffic Systems (via email)

Selected Portions of
April 21, 2010
Hearing Transcript

~~SSA~~
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>> OF THE SELECTION COMMITTEE'S
DECISION REGARDING REQUEST FOR
PROPOSAL RFP V10-041, AUTOMATED
ELECTRONIC SPEED AND RED LIGHT
ENFORCEMENT CAMERAS AND
CITATIONS PROCESSING SERVICES.
I GUESS THE WAY WE GO THROUGH
THIS IS FIRST, I'D LIKE TO KNOW
JUST FOR MY OWN EDIFICATION WHO
WE HAVE HERE TODAY.

THIS MIGHT BE A LITTLE UNUSUAL
BUT A LOT OF UNFAMILIAR FACES
OUT THERE.

I KNOW SOME -- MAYBE IN THE BACK
ROW, COULD YOU FOLKS JUST -- DO
YOU REPRESENT A CERTAIN COMPANY?
OR WOULD YOU LIKE TO SPEAK
TODAY?

OK.

>> VICE PRESIDENT OF SALES.

>> OK.

[INAUDIBLE]

>> OK.

>> AND I --

>> [INAUDIBLE]

>> OK.

VERY GOOD.

THANK YOU.

UP HERE IN THE FRONT, MY NAME IS
MERRILL STANLEY, BY THE WAY, I'M
THE DEPUTY CITY MANAGER AND WAS
APPOINTED THE HEARING OFFICER
FOR THIS APPEAL.

TO MY RIGHT, ANGIE DINATTO,
ASSISTANT CITY ATTORNEY, IS THAT
CORRECT?

ANOTHER ASSISTANT CITY ATTORNEY,
CAPTAIN DOUG HARVEY, THE CHAIR
OF THE SELECTION COMMITTEE AND
TO MY LEFT, MIKE, OUR
PROCUREMENT ADMINISTRATOR.
PREFERABLY KNOWN AS PURCHASING
AGENT.

SO THE WAY WE'LL WORK THIS IS,
LIKE I EXPLAINED IN AN E-MAIL,
I'M NOT SURE HOW MANY SAW THE

DEVELOPED THE MOST ACCURATE AND RELIABLE SYSTEM AND WAS OFFERED IN THE FOUR PROPOSALS. THE ALLEGATIONS THAT GATSO WAS INVOLVED IN THE TECHNOLOGY PHASE IN FOREIGN COUNTRIES IS NOT ENTIRELY TRUE. I WILL REFER TO THEM LATER WHEN THEY HAVE A CHANCE TO SPEAK TO DISCUSS THAT. THAT WAS THEIR TECHNOLOGY AND WHAT THEY DO OVER THERE. REDFLEX STATES THEY DID NOT PRESENT THEIR COMPANY'S EXPERIENCE. THEY DIDN'T BELIEVE THEY SHOULD HAVE. STATEMENT OF WET FILM AND APPLES AND ORANGES, BOTH OF THESE RFP'S REQUIRE DIGITAL. DIGITAL WAS PROPOSED. IT WAS BASED ON OF ANY ONE OF THE FOUR RFP'S WOULD HAVE BEEN WET FILM, THAT WOULD BE A VERY LOW SCORE AND THEY WOULD HAVE BEEN KNOCKED OUT IMMEDIATELY BASED ON THAT. NUMBER ONE, THEY WOULDN'T HAVE MADE THE REQUIREMENTS OF THE RFP SO I'M SURE THAT THE PROCUREMENT ADMINISTRATOR OR THEY WOULD HAVE DISALLOWED THEM AT THAT TIME. ALL OF THE RFP'S THAT CAME TO THE COMMITTEE MET THE RFP CRITERIA. >> DOUG, LET ME INTERRUPT YOU, IF I MIGHT, AND JUST ASK A QUESTION ON THAT. >> OK. >> IF THE PROPOSAL IS BASED ON DIGITAL TECHNOLOGY BUT I THINK THE ASSERTION WAS THE EXPERIENCE WAS NOT RELATED TO DIGITAL. IT'S RELATED TO THE FILM. >> I THINK THAT COULD BE -- THAT COULD BE BEST ANSWERED BY GATSO AT A LATER TIME.

>> OK.

>> SUCCESSFUL LENS SKULLS, WE TOOK THE ENTIRE PROPOSALS ON THE ORIGINAL ONE AND PUT THAT IN THE STATEMENTS MADE ON THE -- DURING THE PRESENTATIONS TO COME UP WITH A FINAL SCORE.

JUST TO NOTE THAT THERE'S BEEN A LOT OF TALK OF THEY USE A PARTNER AND IT'S ONLY MENTIONED ONCE, I BELIEVE THAT REDFLEX DOES NOT PRODUCE THEIR OWN CAMERA NOR DO THEY PRODUCE THE SENSORS IN THE ROAD SO EVERYBODY IS USING A PARTNER IN THIS.

AND THAT WOULD BE EXPECTED IN SOMETHING LIKE THIS COMPLICATED. THE COMMITTEE WEIGHED OVERALL THE SUCCESSFUL INSTALLS WITH THE TECHNOLOGY BEING USED AS PRESENTED AT THE STAGE AND SUPPORT THEM ACCORDING TO THAT. REVENUE, TALKED A LONG TIME ABOUT FINALLY HOW WE WERE GOING TO SCORE REVENUE.

IT'S ALL HYPOTHETICAL.

THERE'S SOME GOOD NUMBERS OUT THERE, WHAT YOU COULD DO FOR REVENUE AND AT ONE TIME THE COMMITTEE DISCUSSED LET'S TAKE ONE CITATION.

WE SAID WE DON'T KNOW IF THAT'S FAIR TO ANYBODY.

SO WHAT WE DID IS WE TOOK CLIVE'S INTERSECTIONS BASED ON A REDFLEX SYSTEM BY THEIR STATEMENTS, A BETTER SYSTEM CAPTURING A LOT OF RED LIGHT VIOLATORS.

WITH THAT, WE FOUND OUT THAT WE TOOK THE NUMBER OF COMPLIED, WE HAVE WE PROPOSED ONE MORE INTERSECTION THAN THE FOUR INTERSECTIONS WE STUDIED SO WE ROUNDED IT UP TO AN EVEN NUMBER TO COME WITHIN -- WE ROUNDED THE NUMBER TO 10,000.

IT SHOWS GOOD RELIABILITY.
THEY'RE GOING TO ASSIST YOU WHEN
THERE'S A PROBLEM.

POINT 5, REDFLEX HAS BETTER
TECHNOLOGY.

I DON'T KNOW WHERE I COULD COME
UP WITH THAT ON ALTERNATIVE.
IF MR. STANLEY ALLOWS THEM TO
TALK, THEN THEY CAN DISCUSS
THEIR TECHNOLOGY PARTS BUT THE
ONLY THING I CAN SAY TO THAT IS
THE COMMITTEE DISAGREED AND
DISAGREED WHOLE HEARTEDLY.
CONCLUSION, THE COMMITTEE
FOLLOWED ESTABLISHED POLICIES
AND SELECTED GATSO IN A FAIR AND
UNBIASED MANNER.

I THINK A LOT OF THE POINT COMES
DOWN TO, WERE WE REASONABLE AND
WHEN WE FAIR?

I THINK WE FOLLOWED THE
PROCEDURES IN ANSWER TO ALL
THREE OF THOSE IN MY OPINION ARE
YES.

GET ON TO THE APPEAL ON THE
23RD.

IT'S PROBABLY GOING TO -- I
MIGHT NEED A LITTLE EXPLANATION
BUT IT KIND OF GOES TO WHETHER
YOU'RE WATCHING DISH TV OR
DIRECT TV, THAT'S HOW I'M
LOOKING AT THIS.

EITHER YOU CAN OR CAN'T DO IT,
YOU HAVE IT OR YOU DON'T.

AGAIN, IT COMES TO THE FIRST
PAGE, THE PAGE 2 OF THE APPEAL
COMES TO THE PROCESSING.

I BELIEVE THAT BOTH COMPANIES
CAN DO THAT EQUALLY.

SITE DESIGN INSTALLATION, ONE
SIDE IS YES AND THE OTHER SIDE
IS BLANK.

AGAIN, THAT DOES MEAN YES OR
BOTH.

THERE'S A LOCAL ENGINEERING FIRM
THAT IS GOING TO BE HIRED IF
GATSO IS SELECTED.

AND IF REDFLEX IS SELECTED, THEN
IT'S THEIR COMPANY.

PROCESS OF DATA PRIOR TO
PROVIDING ACCESS CHARGES,
VIOLATIONS BE IT BIOMETRIC
PROTECTED SECURE, I'LL LEAVE
THAT UP TO CMA TO DISPUTE THAT.
INITIAL MAILINGS, I'LL LEAVE
THAT UP TO CMA AS WELL.

ABILITY TO ACCEPT PAYMENTS ON
LINE BY CALLING OR THROUGH A
LOCK BOX, CMA CAN ANSWER THAT.
ABILITY TO SHOW COLLECTIVE
EVIDENCE, PICTURES, VIDEO,
ON-LINE TO VIOLATORS, REDFLEX
SITE IS YES, AND THE OTHER I'M
NOT SURE.

BUT THEY BOTH CAN DO THAT.

EXPERT TESTIMONY, I MAY ASK FOR
VERIFICATION ON THAT.

BUT PUBLIC INFORMATION, I KNOW
BECAUSE WE DISCUSSED THAT BUT
THE COMMITTEE LIKED THE
PRESENTATION OF, I GUESS ON
THEIR PUBLIC INFORMATION WHEN IT
WAS PRESENTED AT THE
PRESENTATION.

SO TRAINING OF THE CITY OF DES
MOINES, THAT'S GOT A NO BY IT.
THAT'S PART OF THE RFP AND IT
WILL BE PART OF THE CONTRACT TO
THE SELECTED VENDOR SO I DON'T
SEE A LOT OF ISSUES WITH THAT.
YOU GET TO PAGE 5 OF THE APPEAL
DATED MARCH 23, 2010, AGAIN,
WE'RE GETTING BACK TO SOMETHING
WE NEVER TALKED ABOUT.

WE NEVER ASKED ABOUT, 35
MILLIMETER FILM TECHNOLOGY.

I THINK THAT SHE ACKNOWLEDGED
THAT SHE WAS REFERRING TO A
TECHNOLOGY IN THE CITIES LISTED.
SO SHE COMPARES APPLES TO
ORANGES.

WHEN SHE'S TALKING ABOUT, WELL,
THIS IS TRUE THAT GATSO'S
TECHNOLOGY USES BRITISH COLUMBIA

ANSWER THAT MORE SPECIFICALLY FOR YOU BUT I THINK THAT INFORMATION IS PROVIDED IN THE PROPOSAL.

DID GATSO PROVIDE THEIR FINANCIAL STATEMENT THAT WAS CERTIFIED BY AN INDEPENDENT THIRD PARTY ACCOUNTING FIRM?

MR. HARVEY: YES.

>> DO YOU KNOW WHY THAT DIDN'T END UP IN THE INFORMATION THAT WAS PROVIDED?

MR. HARVEY: TO YOU ON THE APPEAL?

>> RIGHT.

MR. HARVEY: OK.

NO.

>> WHAT DO YOU KNOW ABOUT -- WHAT DID YOU KNOW ABOUT CMA CONSULTING AT THE TIME -- WHAT KIND OF INVESTIGATION WAS DONE INTO CMA CONSULTING AT THE TIME THAT THE SCORING AND THE DECISION MAKING WAS MADE?

MR. HARVEY: DURING THE PRESENTATION, IT WAS TALKED ABOUT THE PROCESSING AND THE TIME LIMITS AND WHAT THEY CAN DO AND THEIR ACCURACY AND THEIR PAST HISTORY JUST AS REDFLEX HAD TALKED ABOUT AS BEING ABLE TO MEET THE CRITERIA THAT WE THE COMMITTEE THOUGHT WAS ACCEPTABLE.

>> DID CMA INDICATE THE NUMBER OF YEARS OF EXPERIENCE THEY HAD WITH PROCESSING OR WERE THEY REFERRING TO OTHER TYPES OF PROCESSING?

MR. HARVEY: ALL TYPES OF PROCESSING.

>> DO YOU KNOW WHAT THEIR EXPERIENCE WAS IN PHOTO ENFORCEMENT PROCESSING WHICH IS WHAT IS HERE?

MR. HARVEY: NO, IT'S PROCESSING OF INFORMATION.

>> DID YOU ASK ANY QUESTIONS ABOUT WHAT OTHER INFORMATION CMA TYPICALLY PROCESSES?

MR. HARVEY: NO.

AS LONG AS WE -- WE DEALT WITH COULD THEY COMPLETE THE TASK THAT WE NEEDED THEM TO COMPLETE AND THE COMMITTEE WAS SATISFIED THAT THE ANSWER TO THAT WAS YES.

>> WAS ANYONE FROM CMA PART OF THE PRESENTATION MADE BY GATSO?

MR. HARVEY: NO.

>> WAS THERE ANY INVESTIGATION INTO CMA'S FINANCIAL STABILITY?

MR. HARVEY: NO.

LET ME CLARIFY THAT.

THE AMOUNT OF INSURANCE WAS BASED ON THE EXPECTED REVENUE TO BE HANDLED AND THE AMOUNT OF INSURANCE OR BONDING THAT WOULD BE NEEDED FOR THIS WAS SATISFACTORY AND MET THE REQUIREMENTS.

>> WHAT DID YOU UNDERSTAND THE ROLE CMA CONSULTING TO BE VS., YOU KNOW, HOW FAR INTO THIS PROCESS IS GATSO TO TAKE IT VS. WHAT IS CMA CONSULTING?

MR. HARVEY: CMA RECEIVES THE INFORMATION FROM THE GATSO TECHNOLOGY.

THIS IS REDFLEX'S BACK OFFICE RECEIVES THAT INFORMATION.

>> YOU'RE SAYING THAT CMA DOES BASICALLY 100% OF THE BACK OFFICE PROCESSING PORTION OF THE PROPOSAL.

IS THAT WHAT YOUR UNDERSTANDING IS?

I'M ASKING YOUR UNDERSTANDING OF IT.

MR. HARVEY: ALMOST 100%.

>> OK.

MR. HARVEY: WHAT IS ALMOST 100%? YES.

>> OK.

AND YOU DIDN'T RECEIVE ANY

MUCH AS YOUR COMPANY PROPOSED.

>> AND DO YOU KNOW WHETHER -- I
GUESS IF YOU RECALL BAKER
ELECTRIC AT THE INTERVIEW.

MR. HARVEY: PART OF IT.

>> DO YOU KNOW WHETHER OR NOT
GATSO ALREADY HAD AN AGREEMENT
IN PLACE WITH BAKER ELECTRIC TO
USE THEIR NAME ON THEIR
PROPOSAL?

MR. HARVEY: THAT'S WHAT THE RFP
STATED AND THAT'S WHAT THEY
SAID.

>> OK.

DID YOU ASK THEM FOR THE BAKER
ELECTRIC GENTLEMAN WHO WAS HERE
ABOUT THAT?

MR. HARVEY: NO, BECAUSE AS WE
WERE IN THE MIDDLE OF REDFLEX
PROPOSAL, HE HAD ANOTHER
ENGAGEMENT AND HE LEFT.

>> LET ME JUST CHECK AND SEE IF
WE HAVE ANY OTHER QUESTIONS.
I DO HAVE A COUPLE OF OTHER
QUESTIONS.

BUT THEN IF WE COULD HAVE THE
OPPORTUNITY, I'D LIKE HIM TO
PRESENT SOME STATEMENTS ABOUT
EVERYBODY OUTSOURCING THINGS AND
I WANT TO BE ABLE TO CLARIFY
WHAT REDFLEX ACTUALLY OUTSOURCES
VS. WHAT GATSO IS OUTSOURCING SO
IF WE COULD GIVE HIM A MINUTE TO
EXPLAIN WHAT --

MR. STANLEY: KEEP IT BRIEF.

>> RIGHT.

RIGHT.

YEAH.

I'LL HAVE A COUPLE OF QUESTIONS
TO FOLLOW UP.

HOW MATERIAL AND IMPORTANT IS
THE BACK OFFICE PROCESSING
PORTION OF THIS RFP TO THE CITY?

MR. HARVEY: VERY IMPORTANT.

>> OK.

AND WE UNDERSTAND THAT CMA IS
DOING A MAJORITY OF THAT FOR

PRESENTATION.

>> WHAT DID THEY -- HOW DID THEY DESCRIBE THEIR RELATIONSHIP WITH CMA?

MR. HARVEY: AS A PARTNER.

>> YOU DON'T KNOW IF THEY HAVE ANY CONTRACTUAL RELATIONSHIP OR COMMON OWNERSHIP OR ANYTHING OF THAT NATURE, WAS THAT EXPLORED AT ALL?

MR. HARVEY: NO.

>> AND THE SPECIFICS ABOUT CMA WEREN'T EXPLORED ANY FURTHER THAN WHAT WAS PRESENTED BY GATSO?

>> CORRECT.

I'LL HAVE HIM DISTINGUISH BETWEEN WHAT REDFLEX DOES AND DOESN'T OUTSOURCE.

>> MARK, JUST A COUPLE OF QUESTIONS.

SO YOU JUST MENTIONED THAT YOUR ASSERTION IS THAT GATSO OUTSOURCE SURVEYS, RIGHT? WAS THAT YOUR UNDERSTANDING IN WHAT WE JUST GARNERED.

VIDEO SURVEYS IN THE SELECTION OF THE INTERSECTIONS, THE VENDOR IS GOING TO COME OUT AND DO AN OUTSOURCE OF THE INTERSECTION TO ACTUALLY QUANTIFY WHETHER THERE ARE ENOUGH VIOLATIONS TO WARRANT A SYSTEM.

MR. HARVEY: CORRECT.

THAT PART WAS CORRECT.

THE FIRST PART OF YOUR QUESTION WAS --

>> IS IT YOUR UNDERSTANDING THAT GATSO OUTSOURCES THAT FUNCTION TO A THIRD PARTY FIRM?

>> THEY WILL BE RESPONSIBLE FOR THAT.

THEY COULD BE A SECOND OR THIRD PARTY FIRM INVOLVED IN THAT.

>> AND THEN YOUR ASSERTION, I THINK ONE POINT OF CLARIFICATION IS THAT DOUG ASSUMED THAT BAKER

PLANNING ON HIRING 140 EMPLOYEES
IN THE NEXT COUPLE OF MONTHS.
WE HAVE MANY AREAS OF EXPERTISE
INCLUDING DATA CENTER WHICH
INCLUDING THE OPERATIONS HELP
DESK AND WE BELIEVE THAT THE
SOFTWARE THAT WE'VE DEVELOPED IS
STATE OF THE ART, THAT IT IS THE
LEADER, AND IF YOU SPEAK TO THE
OTHER CUSTOMERS, REACH OUT AND
GET THOSE REFERENCES, WELL, YOU
ALREADY HAVE, THEY CAN TELL YOU
ABOUT THE GATSO-CMA RELATIONSHIP
AND HOW IT'S WORKED FOR THEM.
MR. STANLEY: HOW MUCH OF YOUR
REVENUES DERIVE FROM BACK OFFICE
FUNCTIONS FOR ENFORCEMENT
CAMERAS?

>> THAT'S A LIMITED SOURCE OF
OUR REVENUE.

WE HAVE A RELATIONSHIP WITH
GATSO AND I DON'T KNOW OF THE
OUTLINE.

I KNOW IT'S -- I WOULD TELL YOU
THAT OUR BUSINESS IS NOT IN
HEALTH CARE.

WE -- MUCH OF OUR REVENUE COMES
FROM HUMAN RESOURCE SOFTWARE.
CUSTOMER RELATIONSHIP MANAGEMENT
SOFTWARE.

WE DO HAVE SOME HEALTH CARE
APPLICATIONS BUT MOST OF WHAT WE
DO ARE CUSTOM DEALS.

LARGE PROJECTS.

AND DATA WAREHOUSES.

AND WHAT YOU'RE WORKING WITH
HERE IS MANIPULATION, AND
CONTROL OF THE MANAGEMENT OF
DATA.

AND THAT'S SOMETHING WE DO WELL.

MR. STANLEY: OK.

AND THAT ASSISTANT CITY ATTORNEY
DOUG PHILLIPS TO MAKE A COUPLE
OF COMMENTS ON ONE POINT.

I'LL LET DOUG TALK.

MR. PHILLIPS: I CAN MAKE SOME
COMMENTS OR ASK SOME QUESTIONS,



Brown Winick
ATTORNEYS AT LAW*

Brown, Winick, Graves, Cross,
Baskerville and Schoenebaum, P.L.C.

666 Grand Avenue, Suite 2000
Ruan Center, Des Moines, IA 50309-2510

March 11, 2010

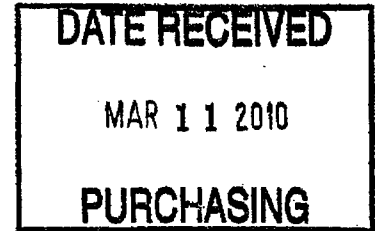
direct phone: 515-242-2452

direct fax: 515-323-8552

email: brommel@brownwinick.com

VIA FACSIMILE AND HAND DELIVERY

City of Des Moines Procurement Office
ATTN: Michael L. Valen
400 Robert D. Ray Drive
Des Moines, IA 50309



**Re: Appeal of March 4, 2010 Selection Committee Award
Enforcement Cameras RFP V10-041**

Dear Mr. Valen:

As you know, this firm represents Redflex Traffic Systems, Inc. ("Redflex"), whose recent application for the above-referenced RFP was rejected in favor of an application by GATSO USA. Pursuant to Paragraph 14(a) of the "Standard Provisions and Requirements for Requests for Proposals (RFPs)", this letter serves as Redflex's written objection and appeal of the Selection Committee's award that was communicated via letter dated March 4, 2010. (Appendix Exhibit A). Redflex requests that a hearing be set on this appeal in accordance with Paragraphs 14(a) and (b) of the Standard Provisions and Requirements.

A. INFORMATION UPON WHICH APPEAL IS BASED.

Prior to setting forth the grounds of its appeal, Reflex would like to clarify the available information upon which the appeal is based. As you know, on March 4, 2010, we sent you an Iowa Code chapter 22 request for information related to the above-referenced matter. (Appendix Exhibit B). On March 9, 2010, we were provided with the information in your possession regarding GATSO USA's proposal that had not been marked confidential. (Appendix Exhibit C). GATSO USA has marked everything confidential except its cover letter, the table of contents for its proposal and its general marketing brochures. Also on March 9, 2010, you provided a copy of your letter to GATSO USA, which gave GATSO USA five (5) days to protect the confidentiality of the remaining documents. (Appendix Exhibit C). Five (5) days after March 9, 2010, the City will release such information absent action by GATSO USA and a court order. Because Redflex's deadline to appeal the March 4, 2010 decision is noon on March 11, 2010, Redflex is unable to review the actual proposal submitted by GATSO USA, even though most of the information should clearly not have been designated confidential under Iowa Code chapter 22.

Additionally, you advised that the Selection Committee may have gathered information during their selection process, such as copies of GATSO USA's presentation, which would not be in

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your possession. You suggested that I speak with Captain Douglas Harvey regarding such materials. Because the Selection Committee required Redflex to provide copies of its presentation, we assume GATSO USA was also required to provide a copy of its presentation. A request for information pursuant to Iowa Code chapter 22 was issued to Capt. Harvey on March 8, 2010. (Appendix Exhibit D). Late yesterday, we were informed that Capt. Harvey did have GATSO USA's presentation. However, GATSO USA verbally designated the presentation as confidential, and thus, copies will not be provided until five (5) days after March 9, 2010.

Accordingly, this appeal is based upon the documents provided by your office pursuant to the March 4, 2010 request, copies of which are reproduced in Appendix Exhibit C, as well as other publicly available documents regarding GATSO USA, which are provided in the Appendix. Redflex specifically seeks permission to supplement its support for this appeal if and when the documents being held as confidential are released to Redflex.

B. GROUNDS FOR APPEAL.

1. Redflex has more experience than GATSO USA.

According to the scoring sheet provided on March 4, 2010, the Selection Committee gave GATSO 29.7 points and Redflex 26.7 points out of a possible 30 under the category of "Company Experience". In order to award GATSO USA three more points than Redflex, it is clear that the Selection Committee considered the experience of GATSO (GATSO USA's parent corporation based in Europe), rather than just GATSO USA's experience. However, GATSO USA, not the parent corporation, is the applicant. When comparing the years of experience of GATSO USA with Redflex, the numbers do not lie. Redflex has over twenty (20) years of continuous operation in the United States. GATSO USA has approximately two (2) years of experience. In fact, GATSO USA was not even established until June 21, 2007. (Appendix Exhibit F). Additional numbers regarding Redflex's installations and contracts, which are certainly pertinent to the "Company Experience" category, are set forth in more detail in section 2 below.

There are important differences between traffic enforcement systems in foreign countries versus traffic enforcement systems in the United States that make foreign experience irrelevant. First, the agencies using GATSO technology in foreign countries do not utilize GATSO for anything but its technology, and GATSO's global business is virtually 100 percent product sales rather than full turnkey services. Foreign agencies typically handle all the administration and processing of the photographs and citations. This is unlike United States law enforcement agencies who, like the City of Des Moines, seek a company who can provide a full-service, turnkey operation. Second, most of the technology installations that are currently installed by GATSO in foreign countries are 35 mm wet film cameras rather than digital cameras. The differences between these two types of technologies affect everything from installation and maintenance to administration, processing and reliability.

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In the United States, GATSO, the parent company, has strictly been a technology provider to the following companies: U.S. Public Technologies L.L.C. (USPT), Lockheed Martin IMS Corporation, and most recently Affiliated Computer Services (ACS). A significant number of the systems provided in the United States are also wet film systems, and as late as 2008 Redflex replaced one such wet film program in Sacramento, California. Any reference to GATSO as a technology provider to various United States programs prior to GATSO USA's incorporation is not relevant for two reasons. First, the programs were run and administered by other companies. Second, a significant portion of those programs are wet film applications and not digital enforcement applications.

Redflex is also a subsidiary of a foreign entity, yet it does not include the experience of that parent company in any of its materials, because such experience is not relevant. The Selection Committee's assumed reliance on GATSO USA's parent company's experience is without basis and left the Committee comparing apples to oranges. Once these details are clarified, there is no question that Redflex clearly has a greater amount of experience relevant to the bid requested for the City of Des Moines.

2. Redflex has More Successful Installs in the United States.

In the category "Successful Installs", the Selection Committee gave GATSO USA a score of 5.0 and Redflex a score of 4.7 out of a possible five points. Redflex has had no unsuccessful installations, so it is unclear why it would not be given less than 5.0 in this category. This is further supported by the fact that Redflex received 10 out of 10 in the "References" category.

Redflex has a greater number of installations than GATSO USA. While Redflex has over 250 contracts in the United States, GATSO USA has approximately twelve (12). Thirty-nine (39) of Redflex's United States contracts are fixed and/or mobile speed contracts. In comparison, GATSO USA was just awarded their first two programs in the past few months, which gives them virtually no operating history in this arena.

Redflex supports over 1,800 installations in the United States, over 300 of which are speed installations. In comparison, GATSO USA supports less than twenty installations in the United States, none of which are speed installations. Even if the Selection Committee considered the installations by GATSO USA and its parent company through ACS, Redflex's market analysis shows that there are less than 400 total installations in the United States, which is just a fraction of Redflex's installations. Again, the numbers clearly show that Redflex has significantly more experience and more successful installs in the United States than GATSO USA.

Furthermore, as mentioned above, many of GATSO USA's contracts and installations are for their 35 mm wet film cameras, rather than digital camera technology, and relate only to the installation of their technology by other companies such as ACS. Over the past few years, Redflex has replaced a number of these systems, including the largest system in California for the County of Sacramento.

3. Redflex should have Scored Higher in the Revenue Category.

Under the category of "Revenue", the Selection Committee gave GATSO USA a score of 25 and Redflex a score of 22.9 out of a possible 25. While we are not privy to the pricing submitted by GATSO USA, there are a couple of important factors that the Selection Committee appeared to ignore.

First, the RFP was for red light cameras in only five locations around the City of Des Moines. During Redflex's presentation, it was communicated by the Selection Committee that the City would likely expand the use of cameras to add additional locations and to add speed enforcement cameras. As Redflex indicated in its discussions with the Selection Committee, if the City did expand its program as suggested, the fee per citation would decrease. This is especially true when speed enforcement cameras are added, because there are generally a greater number of speed violations when compared to red light violations. Redflex's pricing structure was based upon the specifications listed in the RFP. It is unclear whether GATSO USA's pricing was based upon these specifications or the expected expansion of the City's camera enforcement program. The Selection Committee should ensure that they are comparing the same pricing structures in reviewing the information submitted. Further, Redflex would like the opportunity to provide information regarding its pricing should the City decide to expand the program as mentioned by the Selection Committee.

Second, the City of Dallas, Texas, which utilizes GATSO USA's technology, is an example of how the technology used¹ can adversely affect a city's return on investment. (Appendix Exhibit D). As reported in the article, Dallas spent \$6 million on installation and maintenance, yet the cameras only reaped \$1.35 million in revenue. (Appendix Exhibit D). This low revenue results from a low number of citations mailed when compared to the actual number of events captured. From April 2008 to April 2009, of the 934,427 events captured, only 134,998 citations were actually mailed. (Appendix Exhibit D). This low number of citations is likely a result of many "false detections" or missed detections, which stem from the non-invasive vehicle detection technology offered and promoted by GATSO USA as superior to other vehicle detection offerings.

4. Redflex has Significantly Higher Ability to Provide Resources to the Project.

The Selection Committee only scored Redflex slightly higher (9.8) than GATSO USA (9.7) in the category of "Resource Ability." In this category, Redflex should have outscored GATSO USA by a much larger margin.

First, a fundamental part of the photo enforcement process in the United States is the ability to capture images, review images, gather DMV information on potential violators, print and mail notices to the violator and provide services on those notices after a ticket is generated. Although

¹ The technology utilized by GATSO USA will be compared to Redflex's technology in section 5 herein.

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we have not been able to review GATSO USA's actual proposal to the City of Des Moines, in its proposals to other cities, GATSO USA has historically overstated the services that their company actually performs. Unlike Redflex, GATSO USA does not provide any of these fundamental processing services itself. All of GATSO USA's processing is outsourced to a company called CMA. (Appendix Exhibit G).

Second, Redflex has partnered with Baker Electric, which is a family owned electrical contractor that has been in the Des Moines since 1946. (Appendix Exhibit E, p. 160). Baker Electric would assist with the initial installation and construction of systems for Redflex, and it has significant experience and certifications in the area of street lighting and traffic signalization. (Appendix Exhibit E, p. 160). In comparison, GATSO USA has partnered with Engineering Resource Group, Inc. According to Baker Electric, Engineering Resource Group, Inc. is a civil engineering firm, not an electrical contractor, does not have the ability or experience to provide the services necessary to install or construct these types of systems. (Appendix Exhibit M). Thus, Redflex has partnered with a local contractor that has significantly more experience and resources to provide the necessary installation and continuing maintenance services.

Third, it appears that the Selection Committee once again relied upon the numbers of GATSO USA's parent company to rank GATSO USA near Redflex in this category. GATSO USA has only between 5 and 12 employees located in the United States. (Appendix Exhibit L). Although GATSO USA claimed to have 131 employees in its bid to the City of Cedar Rapids, other documents show and verification phone calls to their United States location indicate that twelve (12) or less employees are located in the United States. (Appendix Exhibit L). This certainly affects GATSO USA's resource ability to service a city such as Des Moines. In comparison, Redflex now has over 550 employees in the United States dedicated to its photo enforcement business. (Appendix Exhibit E, p. i).

Fourth, in proposals to other cities, GATSO USA indicated that they had the ability to access motor vehicle registration data using the secure law enforcement system called National Law Enforcement Telecommunications Systems (NLETS). (Appendix Exhibit J). We assume a similar assertion was made in GATSO USA's proposal to the City of Des Moines. NLETS is the backbone of Redflex's ability to provide back office processing services, and through this agency Redflex has earned a strategic partnership that allows Redflex access to motor vehicle information from all 50 states. There are numerous restrictions to access this private information available through NLETS, and Redflex has gone through safety and security rigors with this agency to ensure compliance with its standards. NLETS has confirmed, however, that GATSO USA, unlike Redflex, is not one of its approved strategic partners. (Appendix Exhibit H). Thus, any claimed access that GATSO USA has to motor vehicle registration data is not being obtained via a secure and live law enforcement system, and due to the security requirements set forth by NLETS and imposed upon its strategic partners, GATSO USA would not be allowed to view or access information obtained through the NLETS system. (Appendix Exhibit H).

Fifth, Redflex has significantly higher company revenue and available credit than GATSO USA.

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Redflex is the most financially stable vendor in the industry, with over \$88 million in revenues and a credit line of close to \$100 million. In comparison, GATSO USA disclosed in 2008 that it has access only to \$8.5 million in credit. (Appendix Exhibit F). The financial viability of a company with whom the City is contracting for continued services is vital when an up front investment, such as traffic cameras, turns on the ability to generate revenue from that investment.

Sixth, Redflex has a history of supporting the cities with which it contracts to provide legal support and assistance when camera enforcement is challenged either in the courts or in the legislature. (Appendix Exhibit E, p. 5). When traffic camera enforcement was legally challenged in Iowa, Redflex provided support by bringing all of the affected cities together to form an action group. (Appendix Exhibit E, p. 5). Redflex also provided support in Iowa and other states for legislative changes to allow for traffic enforcement cameras and/or to defeat legislation seeking to make such traffic enforcement illegal. Redflex believes this is a resource that GATSO USA cannot match, especially in light of the number of employees located here in the United States.

5. Redflex's Technology is Better than that Offered by GATSO USA.

Although technology is not a separate category analyzed by the Selection Committee, the offered technology affects, as mentioned above, the revenue and return of investment because of its increased enforceability. The Selection Committee appears to have ignored this very important factor in evaluating the proposals from Redflex and GATSO USA.

GATSO USA's proposal is believed to be (based upon its proposals in other cities) for an 11 mp camera. Redflex's proposal is for a 24.5 mp camera, which has over double the resolution of the GATSO USA camera. The difference between these system capabilities was recognized by the County of Sacramento when scoring the proposals submitted by Redflex and other companies that utilize GATSO USA's technology (ACS). (Appendix Exhibit K). The County of Sacramento gave Redflex's system capability a score of 95, and GATSO's technology, provided through ACS, received a score of 86.4. (Appendix Exhibit K). ACS, using GATSO technology, was the incumbent vendor in Sacramento and thus, Sacramento had intimate knowledge of how such technology performed. In fact, as mentioned above, Redflex replaced the County of Sacramento's existing GATSO technology, which was predominantly wet film.

One of the problems with GATSO USA's technology is what is called "occlusion." As GATSO USA admitted in its application in Palm Bay, Florida, its system, which utilizes non-invasive vehicle detectors, allows occlusion to occur. (Appendix Exhibit J). Occlusion occurs when a large truck blocks the detector from seeing the violating vehicle. (Appendix Exhibit J). In addition, as the article regarding the City of Dallas enforcement system is evidence of, GATSO USA's technology produces a large number of "false positives" because it triggers even when no violation has occurred and in the process misses actual violations. (Appendix Exhibit I). Not only is this a public nuisance (because drivers can see the false flashing), but it also increases the administrative costs and reduces the return on investment.

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As set forth in more detail in Redflex's proposal, Redflex guarantees an 85 percent violation issuance rate. (Appendix Exhibit E, pp. 3-5). In reality, Redflex has and can have an even greater violation issuance rate. As shown in the proposal, Redflex's systems in Albuquerque, New Mexico and Columbus, Ohio have an average of 95 percent and 91 percent violation issuance rates, respectively. (Appendix Exhibit E, pp. 3-5). These high prosecutable capture rates are due in large part to the leading edge technology and system configuration, which utilizes lane and zone specific image capture format. (Appendix Exhibit E, pp. 3-5). Higher violation issuance rates translate into higher revenues for the City and a higher return on investment.

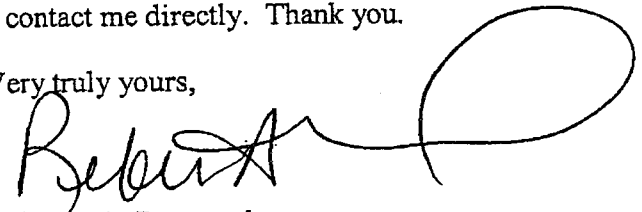
C. CONCLUSION.

As detailed above, it is clear that Redflex has greater experience, more successful installs, greater revenue and significantly more resources than GATSO USA, and thus, we believe that the Selection Committee's evaluation scores were not fully informed and/or based upon the information relevant to the bid to the City of Des Moines.

Accordingly, we ask that the City Manager grant a hearing and allow Redflex further opportunity to present the information herein as well as any information received after the date of this letter and prior to the hearing. Upon the conclusion of such hearing, we ask that the City Manager make a written report rejecting the recommendation of the Selection Committee and directing the Committee to reevaluate the proposals submitted. We believe that as a result of this process and in light of the information provided herein, the Selection Committee should select the clear choice - Redflex Traffic Systems, Inc.

If you have any questions, please do not hesitate to contact me directly. Thank you.

Very truly yours,



Rebecca A. Brommel

RAB:hs

cc: Mark Etzbach, Redflex Traffic Systems, Inc.

Yesterday, City's Red Light Commission Realized How High the Price of Safety

By Kimberly Thorpe in News You Can Actually Use, Actually

Wednesday, Jun. 24 2009 @ 9:47AM



Dallas's red light cameras came under scrutiny yesterday during a meeting of the city's Automated Red Light Enforcement Commission, where commissioners wrestled with the concept of spending a lot to make a little. As in: The installation of the 66 cameras in 2007 -- and their maintenance since then, not to mention the salaries that go along with operating all of it -- cost the city more than \$6 million each year. And the return on that investment? A mere \$1.35 million.

And since a Texas law enacted also in 2007 requires that the city split this revenue with the state, the city takes home just \$676,753.

The meeting at Dallas City Hall on Tuesday included seven of the 10 members of the enforcement commission. Three Public Works and Transportation employees charged with running the city's Safe Light Program fielded the questions and provided the data.

One commission member, Steve Rosato, expressed his concern that the city council may have approved the pricey program without understanding the expense. "Was this presented to city council as spending \$6 million to make \$1.3 million?" Rosato asked.

Public Works and Transportation Assistant Director John Brunk answered by tempering the group's monetary concerns with real safety benefits.

"This is mainly a safety program," said Brunk.

Rosato nodded, as if finally remembering the point of the program. The tone for the remainder of the meeting shifted as another Public Works employee, Elizabeth Ramirez, chief engineer of the program, provided safety-related statistics to the group.

On average, she said, 30 percent of the 5,000 accidents at traffic signals each year are related to drivers running a red light. Since the cameras were installed in 2007, there has been a 62 percent reduction in red-light related accidents on intersection approaches with a camera. And, a 30 percent reduction in accidents of all types at intersections with red light cameras.

Some other interesting tidbits from the meeting:



- From April 2008 to April 2009, the red light cameras captured 934,427 events. But only 134,998 citations were actually mailed. A company contracted by the city has each event reviewed by a violation processing specialists. Most are dismissed because "no violation occurred," probably because a car slammed on the brakes at the last minute.
- The city is policing itself when it comes to monitoring department employees running red lights. Not surprisingly, Dallas Police Department cops run the most red lights. But each citation is investigated just in case a cop is faking an emergency to avoid stopping. Only three cops have run a red light for no reason on two repeated occasions.
- The Mayor's office has one violation for \$100 (\$75 ticket plus \$25 late fee). The city will only say that it wasn't the mayor but somebody from his office.



Proposal

Additional Questions

December 9, 2008

Purchasing & Contracts Division

Room 23

City Hall

120 Malabar Road SE

Palm Bay, FL 32907



EXHIBIT
J

tabbles

Palm Bay, Florida: RFP 33-D-2008/DR: Red Light Safety Enforcement System

Chief Blang also believed that Gatsco's "True Speed" capability would allow them to enforce right turn on red violations more accurately than with RedSpeed, since RedSpeed could not provide "True Speed" with its in-ground hockey puck detectors. Chief Blang felt that partnering with a company that developed and manufactured its own cameras and detection technology was very important, versus a company that purchased their cameras from one company and detection technology from another.

Gatsco USA's integrated Amber Alert capability was also a "must have" for Chief Blang. The chief recognized the importance of having an Amber Alert capability without the need for extra cameras, as some other vendors would require, at an intersection was important. Gatsco USA's Amber Alert feature could be used with either Gatsco USA customer to create a wider search capability among various municipalities.

Lastly, the privacy of a motorist's movement in the city was also important to the chief, since whenever citizens think that a photo enforcement program is all about "big brother" and a violation of their privacy. Therefore, by providing an integrated Amber Alert solution that can only be activated for a child abduction or serious injury, and will suspend normal Red Light Running Enforcement for a selected period of time was a program benefit and more acceptable in the community.

3. How do you acquire car ownership records for in state and out of state and why is that better than your fellow competitors?

Gatsco USA utilizes National Law Enforcement Teletype System (NLETS) to provide us with registration information and vehicle ownership for all 50 states. NLETS access through a secure VPN portal allows Gatsco to gain up to date registered owner details for both in state and out of state drivers. NLETS is a standard approach to resolving ownership questions by most vendors of photo enforcement programs.

www.nlets.com

4. What traffic statistical reports can be generated by your system, and how do I access them?

The Violations Management software allows for detailed and widespread reports from the program. The screen shots below give insight into the four categories of reports (violations, citations, management and financial) and the individual reports available within each category. Should the City of Palm Bay wish to have specific reports not highlighted in this section, then Gatsco will be pleased to provide them within the contract pricing already given.



Palm Bay, Florida, RFP 14-2008-003, Red Light Safety Enforcement System

22. Have you ever had to break a contract with a City/Courtesy to it not generating enough revenue for the system to operate? If so, please explain.

NO.

23. Have there ever been instances of a "blind spot" where a license plate was not captured? If so, please explain how the cameras are set up to avoid this.

Occlusion is the number one reason for missing a license plate. In States where air-brake loops are used for vehicle detection, occlusion can occur when a vehicle properly triggers the camera, but a large truck between the camera and the vehicle blocks the camera. The result is a beautiful photo of the side of a truck. The resulting photo then requires an explanation why the event happened.

When non-invasive non-plate detection are deployed, occlusion can occur when a large truck blocks the non-invasive detector from seeing the violating vehicle. The difference in this case is no resulting photo occurs which requires an explanation. Every vehicle detection method has some amount of occlusion but we have minimized this at Gato USA by installing the sensor antenna at 25 ft or higher above the roadway.

24. Given the City's geographic location, what plans does your organization have in place for a timely restoration?

Gato has staff located in Ocala, Florida and in a UK and response to technical, operational or commercial issues it would be the local staff in quick attendance. For more complex issues an engineer might be flown into Palm Bay from a other regional Gato office or if necessary, another part of the country should the need arise.

As the on-line technical system is constantly being "improved" through our data lines, Gato uses advanced remote diagnostics to maintain and optimize the cameras, radar and other components through one of its engineering centers.

25. Does your proposed price include costs associated with repairs due to a natural disaster?

Yes. The program compensation to Gato detailed within the RFP submittal covers all costs for repairs, maintenance and servicing of the equipment, including for reasons of natural disaster.

26. How would the City be compensated for loss of services due to malfunction of equipment or the repair downtime?

The City can be assured that Gato shall maintain the strongest of uptimes for the provided solution and can warrant that any malfunctions of equipment will be fully



Internal Services Agency

Department of General Services

Michael M. Morse, Director

Contract & Purchasing Services

Craig Rader, Purchasing Agent

Terry Schutten, County Executive
Mark Norris, Agency Administrator

County of Sacramento

Date: June 10, 2008

Subject: Notice of Intent to Award

The County of Sacramento has completed evaluation of RFP7169, Red Light Camera System.

The Contract and Purchasing Services Division intends to award a contract to:
Redflex Traffic Systems Inc.

The above award is contingent upon Board of Supervisors approval.

The final bid ranking has been determined as follows:

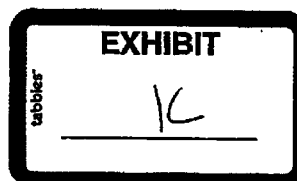
	Redflex	ACS	ATS	Nestor
Company Qualifications	94	52.4	69.5	66.6
System Capabilities	95	86.4	77.6	75.4
Customer Service	89.6	84.3	77.8	61.0
Price	100	82.8	73.7	63.0
Total Points	378.6	305.9	298.6	266.0

Further information is available by contacting the Senior Contract Services Officer.

The County appreciates your participation in this solicitation.

Sincerely,

Steve Clark
Senior Contract Services Officer



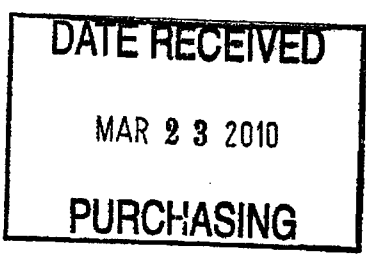


Brown, Winick, Graves, Gross, Baskerville and Schoenebaum, P.L.C. 666 Grand Avenue, Suite 2000 Ruan Center, Des Moines, IA 50309-2510

March 23, 2010

direct phone: 515-242-2452
direct fax: 515-323-8552
email: brommel@brownwinick.com

VIA HAND DELIVERY
City of Des Moines Procurement Office
ATTN: Michael L. Valen
400 Robert D. Ray Drive
Des Moines, IA 50309



Re: Appeal of March 4, 2010 Selection Committee Award Enforcement Cameras RFP V10-041

Dear Mr. Valen:

As you know, this firm represents Redflex Traffic Systems, Inc. ("Redflex"). As you also know, pursuant to a letter dated March 11, 2010, Redflex appealed the Selection Committee's recent decision to select GATSO USA's application for the above-referenced RFP. This letter serves to supplement Redflex's March 11, 2010 letter now that we have received a copy of GATSO USA's application and presentation to the Selection Committee. This supplement is timely pursuant to your email dated March 16, 2010, wherein you advised that Redflex would have until noon on March 23, 2010 to submit additional information in support of its appeal. Redflex requests that the City Manager consider both this letter and the letter and appendix submitted on March 11, 2010 in his review of the Selection Committee's decision.

A. GROUNDS FOR APPEAL

- 1. Based upon available information, Redflex believes that GATSO USA will not directly provide the services requested by the City's RFP.

The City's RFP states as follows:

It will be the responsibility of the company that is selected to provide the following, with all processes subject to the approval of the City:

- 2.1 Installation of all equipment at identified locations and removal of all equipment upon termination of the contract.
2.2 Upgrade, maintain, and repair the equipment.
2.3 Identify the registered owner of the offender vehicle.
2.4 Process citations.
2.5 Provide mailing services.
2.6 Compile and maintain process reports for viewing by the City as

requested.

2.7 Develop a payment process to recompense the city an agreed upon percentage of penalties collected.

2.8 All proposers must provide operational plans on how their system will be utilized in the city of Des Moines, Iowa. It is the desire of the City that this operational plan include flow charts of the enforcement and billing process from the initial violation to the final payment to the City and photographs of associated equipment. This plan shall be comparable to a Design Overview, which explains how the system works and the needed components for the system.

2.9 The operational plan must also identify details of any equipment or operational interface that is needed at existing traffic signal locations for identifying red light violations.

(RFP, pp. 2-3). In its proposal, GATSO USA indicates that it provides these (or at least something similar to) these requested services for a full turn-key operation. (GATSO USA proposal, p. 31). Based upon GATSO USA's provision of services in other cities, Redflex believes that GATSO USA does not have the capabilities to directly provide all of the required back office processing and that such services are primarily outsourced to other companies. Furthermore, assuming the publicly available information as to the number of GATSO USA employees is accurate, Redflex does not believe that GATSO USA could handle all the necessary back office processing with a staff of only 12 individuals in the United States, especially if it already has other cities' programs to manage. (March 11, 2010 Appendix Exhibit L). Unlike Redflex, which clearly provided information as to the number of their employees available to handle the necessary activities, GATSO USA never identified anywhere in its proposal or presentation how many employees it has in the United States to provide the required services. (March 11, 2010 Appendix Exhibit E).

Using the chart provided in GATSO USA's proposal, the following clarifies who Redflex believes (based upon GATSO USA's history in other cities) provides the listed services:

Service Requirement	Does GATSO USA meet this requirement?	Who does provide this service?
Assistance with intersection selection, including establishment of baseline counts of red light violations at an initial set of intersections. This data should enable the City of Des Moines to gauge the impact of an automated traffic safety camera enforcement program	No	It is believed that this function is outsourced to third party engineering firms. If the surveys provided are visual instead of video based like those proposed by Redflex and performed by Redflex staff, there is a potential for inaccuracies.

<p>Site design, installation, maintenance and operation of automated camera systems at all selected intersections.</p>	<p>Yes</p>	
<p>Process of data prior to providing access to chargeable violations via a biometric-protected, secure interface to the City of Des Moines and facilitate review and authorization of citations by electronic signature for those events that meet specific criteria.</p>	<p>No</p>	<p>These services are provided by CMA Consulting. GATSO USA will not process violation events. As described in the Columbia, Missouri business rules document, this functionality will be provided by CMA Consulting. (March 11, 2010 Appendix Exhibit G).</p>
<p>Initial mailings to violators and all follow-up mailings, including but not limited to: determination of liability, final determination of liability, late payment, insufficient payment, partial payment, notice to appear at administrative hearing and findings, decision & order.</p>	<p>No</p>	<p>These services are provided by CMA Consulting, not GATSO USA. GATSO USA will not print and mail the citation, and GATSO USA will not handle the payment process or any request specific to a citation. (March 11, 2010 Appendix Exhibit G).</p>
<p>Ability to accept payments online, by phone and through a lockbox.</p>	<p>No</p>	<p>Fine payments are made through CMA Consulting. (March 11, 2010 Appendix Exhibit G).</p>
<p>Ability to show collected evidence (pictures, video) online to violators.</p>	<p>Yes</p>	
<p>Call center support for citation status questions, payments and in person hearing scheduling.</p>	<p>No</p>	<p>As evidenced by the Columbia, Missouri business rules document, the 800 number provided is for CMA Consulting, not GATSO USA. (See March 11, 2010 Appendix Exhibit G). Redflex provides a full service call center staffed with its own employees. (Supplemental Appendix Exhibit O).</p>
<p>Provision of expert testimony at contested court hearings until judicial notice is taken</p>	<p>No</p>	<p>GATSO USA will provide expert witness testimony on their technology. However, because of the outsourcing to CMA Consulting, there may be a need for a custodian of records that GATSO USA cannot provide.</p>
<p>Assistance with development of a public information and community</p>	<p>Yes</p>	

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outreach campaign.		
Annual camera certification process.	Yes	
Provision of regular statistical reports of program operations.	Yes	
Training of City of Des Moines staff involved in implementation of the program.	No	GATSO USA is not a strategic partner of Nlets. (March 11, 2010 Appendix Exhibit H). Nlets' rules and guidelines provide that the information obtained through its system may not be made available to people outside of the law enforcement agency or the company that is certified on its behalf to obtain the information. Thus, it is reasonable to assume that GATSO USA will be unable to provide comprehensive training without the assistance of CMA Consulting. (GATSO USA proposal, p. 49).

As this chart makes clear, over half of the required services are not provided directly by GATSO USA to the City, and the City would actually be working through other companies to obtain all the information necessary to run the program described in the RFP. In comparison, Redflex provides all of these services directly, other than it partners with local company Baker Electric to perform the necessary electrical work to install the cameras. (Supplemental Appendix Exhibit O).

GATSO USA's proposal and presentation fails to provide any information on CMA Consulting, which is the company that will provide virtually 100 percent of the back office support processing to the City's program. (GATSO USA proposal, cover letter; GATSO USA presentation, p. 4). CMA Consulting is mentioned only once in GATSO USA's proposal. (GATSO USA proposal, p. 49). The stability and reliability of CMA Consulting is relevant and should certainly be reviewed and questioned when it will be providing a substantial number of services under GATSO USA's proposal. A review of publicly available information shows that the CEO of CMA Consulting, a former member of the New York State Senate, recently resigned after being convicted of two felonies. (Supplemental Appendix Exhibit P). In addition, there were questions raised in New York in 2008 when Assemblyman David Gantt introduced legislation favoring CMA Consulting, which employed his former aide. (Supplemental Appendix Exhibit P).

2. Redflex has more relevant experience in North America than GATSO USA.

In its proposal, GATSO USA stated that it installed over 1200 cameras in North America in the

March 23, 2010

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last ten years. (GATSO USA proposal, p. 2). While it is true that at one point GATSO USA may have installed over 1200 cameras in North America, which includes Canada and the United States, GATSO USA currently only has slightly over 400 installations in the United States. Over the last ten years, many of the marquee programs in the United States that utilized GATSO technology have abandoned such technology. These programs, which were all wet film, 35 mm analog camera programs, have upgraded to digital technology and chose alternative suppliers, such as Redflex, over GATSO's digital technology. The following is a list of some, but not all, of the cities that have abandoned the GATSO wet film 35 mm technology in favor of an alternative digital supplier, such as Redflex:

- Los Angeles, CA
- San Diego, CA
- Sacramento, CA
- Oxnard, CA
- El Cajon, CA
- Beverly Hills, CA
- Montebello, CA
- Phoenix, AZ
- Tempe, AZ
- Philadelphia, PA
- Beaverton, OR
- Ontario, Canada
- Edmonton, Canada

More specifically, GATSO USA provides Washington, D.C. as a reference. (GATSO USA proposal, Attachment 4). The Washington, D.C. program did utilize GATSO technology, but Affiliated Computer Services ("ACS") was the installer and supplier of services. A 2007 article describes a flawed system that lacked the necessary certifications and had malfunctioning and missing equipment. (Supplemental Appendix Exhibit N).

Furthermore, GATSO USA notes in its proposal that its technology has been tested in British Columbia. (GATSO USA proposal, p. 29). While this is true, the GATSO technology used in British Columbia is wet film, 35 mm, not digital, technology. This is simply an inappropriate comparison – like comparing apples to oranges.

So, while the claim made by GATSO USA as to the installation of 1200 cameras may be technically correct, its important to note the following three important distinctions: (1) the type of technology this refers to (primarily wet film 35 mm cameras) is not the same as what is proposed to be utilized in Des Moines; (2) while GATSO technology may have been used, other companies, not GATSO USA, installed many of these cameras and provided the other related services; and (3) a majority of these camera installations have been removed and replaced by digital technology offered by Redflex or other providers.

March 23, 2010

Page 6

3. GATSO's technology has been the subject of a losing court case.

In its proposal and presentation, GATSO USA repeatedly touts the credibility and accuracy of its technology. GATSO USA also claims that it has "NEVER LOST a court case or administrative challenge." (GATSO USA presentation, p. 13).

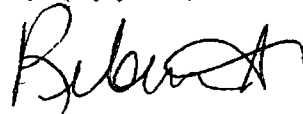
In 2001, perhaps one of the most devastating cases to the enforcement camera industry was issued by the Superior Court of the State of California, County of San Diego. The Court, in reviewing the credibility of a Lockheed Martin enforcement system that utilized GATSO technology, held that "[t]he evidence obtained from the red light camera system as presently operated appears so untrustworthy and unreliable that it lacks foundation and should not be admitted." (Supplemental Appendix Exhibit Q). This case certainly suggests an unfavorable outcome as to the reliability and trustworthiness of the technology utilized by GATSO USA.

II. CONCLUSION.

As this letter and the appeal letter submitted on March 11, 2010 show, there are numerous questions and clarifications the City should ask of GATSO USA in its review of the decision of the Selection Committee. Redflex believes that once these questions and clarifications are asked and answered, it will be clear that Redflex has more related experience, more successful installs in the United States, a higher ability to provide resources to the City's project and better technology than GATSO USA.

Redflex once again requests a hearing on this matter and requests that the City Manager, after a hearing, make a written report rejecting the recommendation of the Selection Committee and directing the Committee to reevaluate the proposals with the information provided in this letter and the March 11, 2010 letter in mind. If you have any questions, please do not hesitate to contact me directly. Thank you.

Very truly yours,



Rebecca A. Brommel

RAB:hs

cc: Mark Etzbach, Redflex Traffic Systems, Inc. (via email)

85A
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The Business Review (Albany) - December 8, 2009
[/albany/stories/2009/12/07/daily22.html](#)

Members:

THE BUSINESS REVIEW

Tuesday, December 8, 2009

Bruno resigns from CMA Consulting

The Business Review (Albany) - by [Adam Sichko](#)

Joseph Bruno abruptly resigned from his position as CEO of CMA Consulting Services on Tuesday afternoon.

Bruno's resignation is effective immediately. No reason was given for the resignation. The announcement comes a day after a jury convicted him of committing two felony crimes while serving as state Senate Majority Leader, the chamber's most powerful person.

CMA Consulting, headquartered in Latham, is the largest women-owned firm in the Capital Region, according to The Business Review's Book of Lists. The company has 400 employees—nearly half of them local—and \$43 million in annual revenue.

Kay Stafford will take over as company CEO. Stafford is currently president and chairwoman of the company. No other management changes were made.

Kris Thompson, a spokesman for CMA, said Bruno made the decision to resign. Bruno also forfeited any shares or stake he had held in the private company, Thompson said.

Thompson said clients have "absolutely not" expressed any concerns to CMA.

CMA had a relatively low profile before hiring Bruno in July 2008, one month after he retired from the state Senate. Stafford told The Business Review she hired Bruno to be the company's public face, and to use his network of contacts to arrange meetings with potential new clients.

Stafford, a close friend of Bruno's, gave him her CEO job—and her office—while taking on the chairwoman role.

In January 2009, Bruno was indicted on eight counts of federal mail and wire fraud. Prosecutors said the charges furthered an alleged scheme by Bruno to intentionally, and illegally, conceal his outside business consulting activities while in office.

At the time, Stafford told The Business Review that Bruno would remain company CEO, understanding that would mean he wouldn't be in the office much and she would have to handle most of Bruno's duties.

Stafford insisted the business of CMA Consulting Services is separate from the indictment.



"That's Joe Bruno's battle, not CMA's. We are not selling Joe Bruno; we're selling CMA and the expertise we have," Stafford said in January.

"But of course, I have to be concerned," she continued. "When we lose a bid [for a contract], we'll wonder, 'Is this because of Joe, or is this because we weren't the low bidder?' The pain is in that worry."

CMA is not named in the federal indictment against Bruno. The company combines computer software development and technology consulting; almost half its annual revenue comes from contracts with New York state.


Asked what Bruno will do next, Thompson answered: "He will fight long and hard to clear his name."

Bruno will continue to collect his annual state pension of \$93,548.76. The state constitution dictates that pensions cannot be diminished, even if recipients have been convicted of crimes.

Bruno faces a maximum of 40 years in prison, but plans to appeal the conviction. He was acquitted on five other counts; the jury was deadlocked on an eighth count.

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Relationship between Gantt, ex-aide comes under fire

 Posted by [NY Politics](#) on Jun 5th, 2008 and filed under [News](#). You can follow any responses to this entry through the [RSS 2.0](#). You can leave a response or [trackback](#) to this entry

The close relationship between Rochester Assemblyman David Gantt and lobbyist Robert Scott Gaddy is again being questioned, this time over legislation to install red-light cameras at intersections in New York.

0
tweets

The criticism comes from industry officials who allege that Gantt, D-Rochester, the powerful Democratic head of the Assembly Transportation Committee, recently introduced a bill that would favor an Albany-area firm's bid to install the cameras at intersections across the state.

twof

Gaddy, according to state records, was hired last year for \$80,000 by the company, CMA Consulting Services Inc. He served as an aide to Gantt from 1995 to 1998.

Gantt's measure has befuddled other companies that install the cameras nationwide, in part because Gantt had previously opposed the cameras.

Gantt said he knows nothing about Gaddy's clients and introduced the bill because some counties, including Erie, Broome and Nassau, want to be able to install the cameras. He said he's not even sure he supports the legislation himself.

"I put in a bill," he said. "I don't have a right to put a bill in?"

Current law prohibits cameras in all communities except New York City, which uses the cameras to track drivers who speed through red lights. The legislation would allow any county to install the cameras.

The bill states that "red-light camera systems are aimed at helping reduce a major safety problem at urban and rural intersections, a problem that is estimated to produce more than 100,000 crashes and approximately 1,000 deaths per year in the United States."

The bill also says that the size of the problem "establishes a need for a large-scale demonstration program in the state of New York to examine the effectiveness of such systems."

Cristina Weekes, vice president of marketing at Redflex Traffic Systems in Scottsdale, Ariz., said the legislation would be fine if it didn't specify radar technology that's only produced by CMA.

"It's an industry concern over the legislation that appears to favor one company over the vast majority of prevailing technology that is out there," she said.

CMA did not return calls seeking comment Wednesday. The company is headed by Kay Stafford, a trustee of the State University of New York and widow of the late North Country state Sen. Ronald Stafford.

Gaddy declined comment Wednesday, but said earlier this week that the technology, which is created by Swedish firm Sensys Traffic, can be used by other businesses.

Gaddy's relationship with Gantt — who has said that "Gaddy is like a son to me" — has come under fire in recent years.

After serving as a Gantt aide, Gaddy developed a sizable lobbying business, including work in Rochester for the Rochester Rhinos soccer team, the Rochester Genesee Regional Transportation Authority and the Rochester City School District.

In 2004, Gaddy was dumped by the school district after concerns that he didn't adequately represent the district in a spat with Gantt over school aid.

James Bowers, a former city school board member and Gantt foe, has been critical of the relationship and said he's not surprised the issue has been raised recently in Albany.

Gaddy and Gantt have denied there is any quid pro quo. But Bowers alleged that the hiring of Gaddy to curry favor with Gantt is "the cost of doing business. This is very similar to the experience I had when I was on the board.

"When I got there, Mr. Gaddy was the district's lobbyist. And it was explained to me that this was our 'Gantt tax.' This is what we had to do to try to ensure that the assemblyman would respond to us."

The battle to win the camera contract has been fierce. Another firm, American Traffic Solutions, also based in Arizona, has paid powerful lobbyist Patricia Lynch and Associates \$78,000 over the past year to represent them in Albany.

It's unclear if the legislation will receive approval before lawmakers head home in late June. Weekes said it is her understanding that the measure has not made it out of committee because of the strictness of the language that allegedly favors CMA.

Gantt declined to discuss the status of the bill, which has also been introduced in the state Senate. Source: [Democrat and Chronicle](#)

timesunion.com

Good timing for good deal

First published: Monday, June 9, 2008

The widow of former state Sen. Ron Stafford last month bought a home from the elder son of Senate Majority Leader Joseph L. Bruno at an apparent premium, at a time when she is seeking legislation that would benefit her company.

Kay Stafford bought 303 Bulson Road, Brunswick, for \$475,000 from Joseph M. Bruno. Town records show the three-bedroom residence on 17 acres, which is next to the senator's, is assessed at \$74,100, with a total market value of \$304,938. The deed transfer was recorded May 13. Stafford did not return calls.

In 2000, she married Sen. Ron Stafford, R-Plattsburgh, an ally of Sen. Bruno. As Finance Committee chair, Sen. Stafford was second to Bruno in influence in the Senate. He died three years ago after nearly 40 years in the Senate.

Kay Stafford leads CMA Consulting in Latham, a company that state comptroller records show has received 199 state contracts since 1998 worth \$94.6 million. Most of that work -- in computer programming services and technical database services -- came in recent years.

CMA would benefit from a law proposed by Assembly Transportation Committee Chairman David Gantt, D-Rochester, that would allow counties to install cameras at traffic lights. The bill would require technology offered by CMA Consulting.

Gantt has come under criticism for the measure because he long opposed traffic light cameras. He changed his position after CMA hired his friend and former staffer Robert Scott Gaddy as its lobbyist.

Gantt said he does not know Stafford and has never talked to her.

John McArdle, the Senate communications director, said Kay Stafford had been a friend of the Bruno family for 25 years, and she saw the home in Brunswick as an opportunity to live closer to her grandchildren, who live in Williamstown, Mass. At about the same time he sold his home, Bruno's son quit his \$104,000 post as director of job order contracting at the State University Construction Fund on May 15, state records show. His state career began in 1995, shortly after his father rose to lead the Senate's Republican majority and Gov. George Pataki took office.

Same old, same old

New York may have its first black governor, but the state's public authorities are run largely by white males, according to a still-unreleased report.

The Government Law Center at Albany Law School, which trains authority board members, looked at 14 of the top panels, which account for 85 percent of the state's debt. They included the Dormitory, Thruway, Power, and Metropolitan Transportation authorities.

The review found that women, who make up 51.5 percent of the state's population, account for just 19 percent of the board positions, while minorities, who make up 39.5 percent of the state, accounted for 9 percent of board members.

The report, still in draft form, suggests the state at least try to have authority boards reflect the Legislature, which is 23.5 percent female and 21.7 percent minority.

Paterson's office had no immediate comment on the recommendation or the findings.

Contributors included State editor Jay Jochnowitz and Capitol bureau reporter James M. Odat. Got a tip? Call 454-5083 or e-mail jodato@timesunion.com.

Revenue Summary and Scoring Formula

The formula is based on red light violations issued by the City of Clive. The numbers have been adjusted to meet the projection for the City of Des Moines

Clive monitors four intersections and they issue approximately 8,700 citations annually. Des Moines will be monitoring five intersections. Therefore the estimated of citations will be approximately 10,000, annually or 833 per month.

All of the formulas are based on per month and then converted to annually, except GATSO that provided a flat fee

ACS (monthly)

First 90 citations, city revenue is \$33 per citation or \$2,970

91-833 citations, city revenue is \$46 per citation or \$34,178

$\$37,148 \times 12 \text{ months} = \$445,776$

25 points

ATS (monthly)

First 90 citations, city revenue is \$17.50 per citation or \$1,575

91-159 citations, city revenue is \$37.50 per citation or \$2,587

160-833 citations, city revenue is \$47.50 per citation or \$31,967

$\$36,129 \times 12 \text{ months} = 433,548$

24.3 points

GATSO (annual)

All citations, city revenue is \$38 per citation or \$380,000 annually

21.3 points

CONVERSION
25

RedFlex (monthly)

First 150 citations, city revenue is \$17.50 or \$2,550

151-200 citations, city revenue is \$27 or \$1,350

201-833 citations, city revenue is \$40 or \$25,320

$\$29,220 \times 12 \text{ months} = \$350,640$

19.7 points

CONVERSION
22.9

85A
43

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

GATSO USA, INC.,)	
)	
Plaintiff,)	Equity No. CE 65324
v.)	
)	
CITY OF DES MOINES, IOWA)	
)	
Defendant)	SUPPLEMENTAL
)	AFFIDAVIT OF
)	ANDREW NOBLE
)	
)	
)	

Andrew Noble, being duly sworn, further states as follows:

1. In a letter or e-mail dated March 9, 2010 (Exhibit E to the Intervenor's Memorandum of Law) from Michael Valen of the City to me, Mr. Valen advised that "a competing proposer to the RFP has requested to examine confidential portions *submitted with your proposal to the City.*" (Emphasis added.) I understood that Mr. Valen was referring to the original proposal we submitted in response to the RFP in December 2009, many pages of which were marked "Confidential" at the bottom of the page. (See Exhibit B to my original Affidavit.) I advised Mr. Valen that we would not contest the disclosure of the proposal in order to avoid holding up the City's purchasing process.

2. As reflected by the e-mail dated January 8, 2010 (see Exhibit A to my original Affidavit), submitting the financial statements to the City, we did not submit the financial statements with our proposal. Rather, it was submitted separately and designated as "highly confidential."

3. I did not understand Mr. Valen's March 9 communication as referring to the financial statements which were submitted separately from our proposal. I did not, by authorizing the disclosure of our original proposal, intend to waive the confidentiality of the financial statements which were submitted separately from the proposal and to which, as indicated by both its designation as "highly confidential" and by its separate submission, a greater degree of sensitivity and confidentiality applies in the context of our business.

AN ANDREW NOBLE 5/12/20

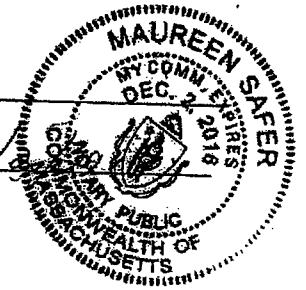
State of Massachusetts
County of ESSEX

Personally appeared the above-named Andrew Noble and subscribed and sworn to before me on this 12th day of May, 2010.

Maureen Sykes

Notary Public/Justice of the Peace

My Commission Expires: 12/18/2018



10-296
85A
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From: Paul Bazzano [mailto:p.bazzano@gatso.com]
Sent: Friday, January 08, 2010 8:15 AM
To: 'vccarter@dmgov.org'
Subject: FW: Gatso Annual Report - Automated Enforcement Project

Officer Carter,
Good morning. I hope you week is going well. Thanks for touching base with me yesterday.

Attached you will find an email from Andrew Noble, President of Gatso USA that includes the Annual Report for Gatso, year ending 2008. As you know, with 2009 just coming to an end it will be several weeks before our annual report for 2009 is complete. Please keep in mind that since our world headquarters is based in the Netherland the attached report with its financial data are in Euros. Therefore, you should multiply 1.4 x the dollar amount to make the conversion to dollars.

Further, we have an additional \$8 million dollar line of credit for our operations as well. The attached information is highly confidential, and we request that this information not be distributed to anyone outside of the City of Des Moines without our permission.

I am based in Illinois as you may know, and am ready to assist you and your team if you should have any additional questions. We sincerely look forward to hearing from you and your team on the next steps in the process.

Have a great week.

Best regards,
Paul

Paul J. Bazzano
Vice President of Sales
(FBI NA 138th Session)

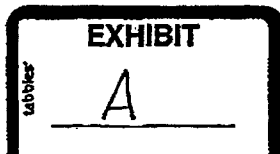
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Fax: 309.243.9267

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Brown Winick
ATTORNEYS AT LAW*

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Baskerville and Schoenebaum, P.L.C.

666 Grand Avenue, Suite 2000
Ruan Center, Des Moines, IA 50309-2510

June 11, 2010

direct phone: 515-242-2449

direct fax: 515-323-8549

email: beltrame@brownwinick.com

The Honorable Mayor T.M. Franklin Cownie
And Des Moines City Council Members
City Hall, 3rd Floor
400 Robert D. Ray Drive
Des Moines, IA 50309

RE: Des Moines City Council Roll Call No. 10-773

Dear Mayor Cownie and Des Moines City Council Members:

On behalf of Redflex Traffic Systems, Inc., I respectfully request that the City Council remove item # 85 from the agenda for the meeting on Monday, June 14, 2010 and reschedule consideration to the next scheduled meeting thereafter on Monday, June 28, 2010.

Very truly yours,

Marc T. Beltrame

cc: Bruce Bergman, Esq.

FA
7-12-10

" WITHDRAWN "

★ Roll Call Number
10-996

Agenda Item Number
85/B

43

Date June 14, 2010

Communication from GATSO USA, Inc.

Moved by _____ to receive, file and

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COW'NIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

REGISTRATION FORM TO SPEAK AT CITY COUNCIL MEETING


10-996
85 B
43

To: The Honorable Mayor
and
Members of the City Council
City of Des Moines, Iowa
c/o City Clerk

I/We GATSO USA, Inc.
(Please Print)

hereby request permission to speak at the Des Moines City Council
meeting of June 14, 2010, regarding
RFP V10-041 (Enforcement Cameras)

See attachment re speaker(s.)

Name:  (DAVE SWINTON)
(Signature)

Address: Belin McCormick, 666 Walnut Suite 200
Des Moines 50309

Daytime Phone: 283-4665

PROCEDURAL RULES OF DES MOINES CITY COUNCIL:

Part III. Agenda

Rule 16. Citizen Agenda Requests. Any citizen may request the right to have an item placed on the Agenda (including a request to speak) by filing such request in writing with the City Clerk prior to noon on the Wednesday preceding the Council meeting.

Part V. Citizen Participation

Rule 27. Citizen's Right to Address Council. Persons other than Council Members shall be permitted to address the Council only upon specific Agenda Items.

10-991
85B

RE: GATSO USA request to be heard at June 14 Meeting of the City Council

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GATSO anticipates that its President, Andrew Noble, would be the primary speaker on its behalf. However, also present at the Council meeting will be GATSO's Vice President Paul Bazzano; Dan Wall, counsel for CMA Consulting Services, Inc.; and GATSO's counsel, David Swinton. Mr. Bazzano and Mr. Wall also participated in parts of the selection process and/or the hearing on the Redflex appeal. Depending on the issues raised at the Council meeting and any questions the Council may have, GATSO may also offer to have Mr. Bazzano, Mr. Wall or Mr. Swinton speak on its behalf.

900 Cummings Ctr. 321-U
Beverly, MA 01915
USA

Tel 978 922 7294
Fax 978 922 7293
ussales@gatso.com



10-2968

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June 9, 2010

Mayor Frank Cownie and
Members of the Des Moines City Council
c/o Des Moines City Clerk
400 Robert D. Ray Drive
Des Moines, IA 50309

FILED
CITY CLERK
DES MOINES IOWA
JUN 9 9 PM 4:49

Re: June 14, 2010 Council Meeting – Agenda Item: RFP V10-041 (Enforcement Cameras)

Dear Mayor and Members of the City Council:

On June 7, 2010 a written communication was filed with the City Clerk by counsel for Redflex Traffic Systems, Inc. ("Redflex") regarding a report that was issued on April 29, 2010 by Deputy City Manager Merrill Stanley affirming the City's Selection Committee to select GATSO USA ("GATSO") as the provider of Enforcement Cameras for the City of Des Moines. With all due respect to Redflex and its counsel, the June 7 letter contains patently inaccurate and distorted representations of fact and raises one or more issues not raised by Redflex in its appeal, contrary to the provisions of the Municipal Code governing that process. We will not attempt to address here every point raised in the June 7 letter, as the great majority of them have already been exhaustively addressed in the original selection and appeal processes. However, there are a handful of items on which we feel compelled to set the record straight.

Redflex asserts that GATSO's bid is inferior and non-compliant in part because of GATSO's clearly disclosed intent to utilize CMA Consulting Services, Inc. ("CMA") to perform back-office processing services.¹ Nothing in the RFP prohibited the use of subcontractors or required separate compliance by subcontractors with stipulations such as the submission of financial statements. Redflex also indicated its intent to utilize one or more subcontractors in certain aspects of its proposed performance but did not submit financial information for any such subcontractor. A CMA representative did present at the

¹ Back-office processing consists of viewing violation images in accordance with the City's business rules, gathering registered owner information and mailing the citations upon approval by the City's police department. All of these actions will be performed by CMA through a computer program designed for GATSO for specific use with GATSO cameras, delivering functionality to the City in accordance with the service levels that GATSO has guaranteed to the City and in a manner prescribed by GATSO. GATSO will retain direct responsibility for traffic studies and reports, intersection design, installation and commissioning of equipment, public information outreach, training of City staff, taking violation images, quality control for cameras and violation photographs, issuance of reports to the City, development of press information, and auditing of the program and its systems.

appeal hearing a comprehensive overview of CMA's financial strength and its outstanding track record of innovation and services to local and state governments nationwide.

In the appeal and in the June 7 letter Redflex went to extraordinary lengths to attempt to smear the reputation of CMA, including but not limited to its reference to the indictment of the former CEO of CMA. The conduct alleged in the indictment occurred before the executive joined CMA and had nothing to do with CMA's business. The executive resigned from CMA shortly after the indictment and has since had nothing to do with CMA's business. Redflex also sought to support its characterization of CMA's background as "questionable" by the submission of an otherwise unsubstantiated newspaper article from June 2008 which focused on the ethics of a New York State Assemblyman and a former staffer who became a lobbyist for CMA, not on any alleged wrongdoing by CMA.

Redflex also argues at length that GATSO lacks the two years' minimum experience required by the RFP. GATSO is the U.S. operating subsidiary of a European company which has been producing photo-enforcement technology for more than 50 years, and CMA has been delivering back-office processing services for more than 20 years. Today, GATSO and its parent company have installations in over 45,000 locations in over 60 countries worldwide. GATSO has secured more government approvals and certification for its technology than Redflex or any other company. GATSO's parent developed the first speed enforcement camera as well as the first red light camera. GATSO has been providing full-service turnkey photo enforcement programs in the United States since early 2007. The selection committee and the hearing officer thus correctly concluded not only that GATSO had the necessary experience, but that the experience of its parent was attributable to GATSO for the purpose of evaluating its bid.

Section 2-756(a) of the Municipal Code required that Redflex's appeal set forth "all of its objections to the committee's recommendation and all arguments in support thereof." Redflex seeks to sidestep that requirement through its June 7 letter in at least one important respect. Redflex asserts for the first time in the letter, again citing only a substantiated newspaper article as the basis for its assertion, that GATSO cameras in Dallas, Texas have a citation issuance rate of 14% as compared to Redflex's claimed citation issuance rate of 66%. However, Redflex fails to disclose that the program in Dallas is not operated by GATSO, the cameras were not installed by GATSO, and that the cameras supplied to a 3rd party company for use in Dallas were not the same type of cameras included in GATSO's response to the RFP for Des Moines.

In fact, as but one example of a recent project which was installed and operated by GATSO, GATSO's actual citation issuance rate for the City of Cedar Rapids has been as high as 90%.

Finally, Redflex asserts that its ability to pursue an appeal has been impeded by difficulties allegedly encountered with the City's compliance with Redflex's requests for inspection of public records under Iowa Code Chapter 22. Obviously, the City Attorney is in the best position to address this claim, but it should be noted that if Redflex believed the City's response to its requests was not adequate, Chapter 22 provides a method for enforcement of the rights of the requesting party and Redflex to date has not availed itself of that remedy. Moreover, in light of the fact that the City has postponed the Council meeting to address the bid recommendation not once but twice to accommodate Redflex's appeal and requests for records, if Redflex believed that it was still lacking any relevant information responsive to its requests it could have sought yet another extension, but has not done so.

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This and other aspects of Redflex's appeal suggest that it represents a fairly desperate attempt to derail by any means necessary a bid selection process which has been handled carefully and conscientiously by City staff from the outset, when in fact the outcome of that process was both in compliance with the RFP and in the best interests of the City. GATSO respectfully requests that the findings of the Deputy City Manager in the Redflex appeal be affirmed by the Council and that the recommendation to accept GATSO's bid be approved.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Andrew Noble".

Andrew Noble
President, GATSO USA

cc: Redflex Traffic Systems