



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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May 16, 2014

Via USPS Regular Mail

Malik Majeed
COO & General Counsel
PRWT Services, Inc.
1835 Market St., Suite 800
Philadelphia, PA 19103

RE: Protest of Award of Contract T2774
RFP #15-X-23323 Front End Mail Receipt & Pre-Processing Services

Dear Mr. Majeed:

This letter is in response to your letter received April 4, 2014, regarding the subject Request for Proposal ("RFP") issued by the Procurement Bureau of the Division of Purchase and Property ("the Division"). In your letter, you protest the solicitation of the subject contract and contend that PRWT Services, Inc. ("PRWT") was unaware the RFP had been issued "due to errant information" provided on the Division's website.

I have reviewed the record of this procurement, including the RFP, PRWT's correspondence, and relevant statutes, regulations, and case law. This review has provided me with the information necessary to determine the facts of this matter and to render an informed determination on the merits of PRWT's protest.

The subject RFP was posted on the Division's website¹ under "Current Bidding Opportunities" on December 13, 2013. As per Division practice, the proposal deadline listed on the website was generated directly from the Division's internal electronic database, which was correctly inputted as January 31, 2014. The "Proposal Solicitation" advertisement placed in *The Star-Ledger* stated sealed proposals would be accepted until 2:00 p.m. on January 31, 2014, and an optional bidder's conference would be held on January 7, 2014. The pdf of the RFP available for download on the Division's website erroneously listed the Bidder's Electronic Question Due Date as January 3,

¹ Current bidding opportunities can be found at <http://www.nj.gov/treasury/purchase/>. The Division's website is continually updated to display only those opportunities which are currently open for bidding, contracts that have been updated within the last 10 days, special notices, and notices of award. It does not retain postings for opportunities that are already closed.

2013; the Optional Pre-Proposal Conference as January 7, 2013; and the proposal Submission Date as January 31, 2013. The signatory page accompanying the pdf of the RFP listed the proposal due date as January 31, 2014.

Addendum #1, dated January 9, 2014, and posted on the Division's website as a pdf on January 10, 2014, revised the Question Due Date to January 28, 2014, and revised the Proposal Due Date to February 28, 2014. The revised proposal deadline was accurately reflected on the Division's website and an appropriate notice was posted in *The Star-Ledger* newspaper.

During the revised Question and Answer period, the Division received approximately 45 questions from potential bidders. The Division also received a number of responsive proposals by the submission deadline. A Notice of Intent to Award was issued by the Procurement Bureau on April 3, 2014.

The Division's responsibility to advertise procurement opportunities is governed by N.J.A.C. 17:12-2.1² "Advertising," which provides:

- (a) Advertising is required when the contract amount is expected to exceed the public bidding threshold or is not subject to the relevant exceptions of N.J.S.A. 52:34-6, 9, or 10. Public notice of the bidding opportunity shall be placed on the Division's website and with other media, including newspapers, as required by law at N.J.S.A. 52:34-12 and determined by the State Treasurer to provide best notice thereof to bidders. Advertisements shall be made a minimum of seven business days in advance of the announced deadline for receipt of proposals to encourage free and open competition.
- (b) If, during the course of an advertised procurement pursuant to (a) above, it becomes necessary to alter any of the terms, conditions, or requirements of the request for proposal, such alterations shall be set forth in addenda to the RFP and shall be advertised a minimum of seven business days in advance of the announced deadline for receipt of proposals.
- (c) In addition to statutorily mandated public advertising, the Division shall also publish notices of bidding opportunities on the Division's website.
- (d) As a service to vendors interested in competing for State contracts to be awarded by the Division and to any other parties seeking information about bidding opportunities available via the Division's competitive contract procurement program, the Division provides an on-line self-registration service known as the e-RFP Notification Service. Vendors and other interested parties can register to receive direct e-mail notices

² The Division's administrative rules governing its procurement programs are set forth in N.J.A.C. 17:12. These rules can be accessed at <http://www.state.nj.us/treasury/purchase/AdminCode.shtml>.

pertaining to the Division's procurements for goods or services based upon specific commodity classes or codes. As this is a self-registration process, it does not create an entitlement for any party to receive notice of any particular solicitation of proposals, and the Division and the State shall not be liable for any losses, claims, or damages of any kind if a vendor or other party, for any reason, is not registered or does not receive an e-mail notice. It is the responsibility at all times for e-RFP Notification Service registrants to exercise due diligence in reviewing the notices on the Division's website to assure their awareness of State bidding opportunities announced by the Division.

PRWT claims it was unaware the RFP had been issued "due to errant information provided on the State's website." However, as noted above, the Division was fully compliant with N.J.A.C. 17:12-2.1: the RFP was properly advertised in *The Star-Ledger*, the Division's website listed the correct date of the proposal deadline, an addendum was issued which revised the proposal deadline, and PRWT had ample time to ask for clarification during the extended Question and Answer period. It is true that the initial pdf of the RFP available for download listed the incorrect year, yet the proposal deadline was revised and correctly updated. The revision also refreshed the RFP with a new notice prominently displayed on the website. Furthermore, the dates contained in the RFP pdf document posted to the website are not connected with eBid or the Division's internal database.

All potential bidders are cautioned that it may be necessary to clarify or revise a RFP. As noted in RFP Section 1.4 *Additional Information*:

1.4.1 ADDENDA: REVISIONS TO THIS RFP

In the event that it becomes necessary to clarify or revise this RFP, such clarification or revision will be by addendum. Any addendum to this RFP will become part of this RFP and part of any contract awarded as a result of this RFP.

ALL RFP ADDENDA WILL BE ISSUED ON THE DIVISION OF PURCHASE AND PROPERTY WEB SITE. TO ACCESS ADDENDA, THE BIDDER MUST SELECT THE PROPOSAL NUMBER ON THE WEB PAGE AT <http://www.state.nj.us/treasury/purchase/bid/summary/bid.shtml>.

There are no designated dates for release of addenda. Therefore interested bidders should check the Division's "Bidding Opportunities" website on a daily basis from time of RFP issuance through the proposal submission opening.

It is the sole responsibility of the bidder to be knowledgeable of all addenda related to this procurement.

1.4.2 BIDDER RESPONSIBILITY

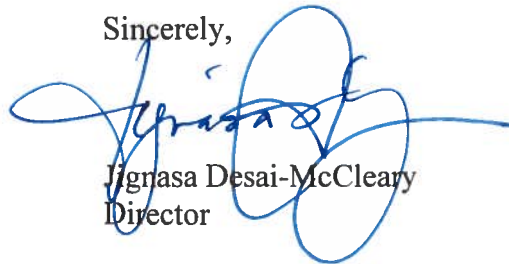
The bidder assumes sole responsibility for the complete effort required in submitting a proposal in response to this RFP. No special consideration will be given after proposals are opened because of a bidder's failure to be knowledgeable as to all of the requirements of this RFP.

Therefore, based on the findings and conclusions set forth above, which establish that this procurement opportunity was advertised and posted in accordance with the requirements of governing law, I must deny your protest. This is my final decision on this matter.

This is an unfortunate situation, as the State encourages competition and welcomes your participation in future procurement opportunities. I do also regret the procurement specialist's typo on one of the initial RFP documents. While not determinative, I note that PRWT is the incumbent T2774 contractor and, notwithstanding the incorrect dates contained in the initial RFP pdf document, would be aware of the dates of the contract and transition period. I recommend that you regularly check the Division's website or *The Star-Ledger* for future procurement opportunities. Alternatively, you should consider registering your email address with the Division's eRFP Notification Service. The Division's records indicate that, while there are multiple registrations for PRWT representatives, none of these registrations are linked to NIGP commodity codes, including the 915 58 code (mailing services, including addressing, collating, packaging, sorting and delivery) used for the subject contract. The responsibility for such action rests solely with the registrant.

Thank you for your continued interest in doing business with the State of New Jersey.

Sincerely,



Jgrasa Desai-McCleary
Director

JD-M:DF

c: L. DuBois
M. Quinn
J. Kemery