



## State of New Jersey

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April 2, 2015

Via Electronic Mail [tracy.barnes@entap.com] and USPS Regular Mail

Tracy E. Barnes, President  
ENTAP, Inc.  
150 E. Market St., Suite 200  
Indianapolis, IN 46204

RE: Protest of Notice of Award of State Contract #T3007  
RFP #15-X-23604 Enhanced Decision and Information System of New Jersey

Dear Ms. Barnes:

This letter is in response to your letter dated February 16, 2015, referencing the subject Request for Proposal ("RFP") and regarding the intended award of the subject contract by the Procurement Bureau ("Bureau") of the Division of Purchase and Property ("the Division"). You protest the slated award of Contract # T3007 to Affinity Global Solutions ("Affinity"), contending its proposal was noncompliant with mandatory terms of the RFP. Therefore, you request the rescission of the intended award and a reevaluation of the proposal submitted by ENTAP, Inc. ("ENTAP").

I have reviewed the record of this procurement, including the RFP, relevant statutes, regulations, and case law, and all relevant proposals. 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 ENTAP's protest without an in-person presentation. N.J.A.C. 17:12-3.2(d)(1).

### I. Background

By way of background, the Bureau publicly advertised the subject RFP on behalf of the Office of Management and Budget ("OMB") to solicit proposals from bidders for the Enhanced Decision and Information System of New Jersey ("EDISON") project. EDISON will replace the existing system used to create and monitor the State-wide budget with a Commercial Off-the-Shelf ("COTS") product. OMB's mission is to provide strategic direction, financing alternatives, and asset management to guide the prudent allocation of limited resources within the policy framework set by the Governor of the State of New Jersey, and to accurately implement and reflect the results of those policies and subsequent financial transactions in the State Budget, in the State Accounting System, and in the State's Comprehensive Annual Financial Report. The intent of the RFP is to award the contract to a single responsible bidder whose proposal, conforming to the RFP, is most advantageous to the State, price and other factors considered.

The Bureau received five proposals by the revised proposal opening deadline of October 21, 2014. All five

proposals were deemed facially responsive. Pricing was removed from all proposals,<sup>1</sup> and the Evaluation Committee<sup>2</sup> determined that two of the proposals, including the proposal submitted by ENTAP, were non-responsive to material mandatory requirements of the RFP and not evaluated further. Thereafter, members of the Committee evaluated the remaining three proposals. After each of these three bidders provided an oral presentation and demonstration of its proposed EDISON solution in accordance with RFP Section 6.6, *Oral Presentation and/or Clarification of Proposal*, the Committee assigned each proposal a technical score.

In determining ENTAP's proposal to be non-responsive, the Evaluation Committee found that ENTAP's proposal did not include a substantive response to RFP Section 3.2.1.1, *Customizable Product*, which requires incorporation of all EDISON changes into the base COTS product, as required by RFP Section 4. As noted in the Recommendation Report: "This is a material requirement for the State. If it is not met by the contractor, it means that every time the software is upgraded over the life of the 10-year contract, the State will be required to execute a Change Order to adapt EDISON customizations to the new version of the COTS software."

Furthermore, the Evaluation Committee Report noted ENTAP's proposal was non-responsive to RFP Requirements 4.4.3.2.7.2, *Experience Requirement for Key Staff*, and 4.4.3.2.8, *Response to RFP Section 3, Statement of Work for Functional (Appendix) and Non-Functional Requirements (Section 6)*. Section 4.4.3.2.7.2 required key staff to possess certain education and work experience. Specifically, the Committee determined that, while a proposed Project Manager was required to have five years of experience, the resume submitted by ENTAP listed only two years. Similarly, the proposed Deputy Project manager was required to have at least two years of experience in project management, yet the resume submitted did not list dates associated with the referenced projects. The Committee also found that the proposed Subject Matter Expert was required to have at least three years of experience as a business or technical expert and a minimum of two years of experience implementing the product being offered, yet the resume submitted by ENTAP for this position did not include reference to any project implementing the proposed software solution, dates, or references for the listed projects.

The Evaluation Committee also noted RFP Section 4.4.3.2.8 required all bidders to "use the functional requirements matrix form in Attachment 2 when identifying the 'fit' between the COTS product being bid and EDISON Functional Requirements." However, the Committee found that ENTAP "failed to provide the required summary statement for each of the functional requirements" and that "in most cases [it] did not provide the number of hours required to configure its proposed solution or to integrate its core product with third-party software[.]" Additionally, in many cases it failed to provide the name or otherwise identify its required third-party software. The Committee relied on this information to determine the "fit" of the proposed solution, as ability to undertake and successfully satisfy all function requirements was one of the four selection criteria considered by the Committee.

## II. ENTAP's Proposal

In ENTAP's letter of protest, it first argues that its proposal was responsive to the cited sections. Specifically, ENTAP alleges it did respond to the requirement of RFP Section 3.2.1.1 "by not taking exception" to it. However, in this case, the lack of an expressed contradiction with a mandatory

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<sup>1</sup> Pricing was removed from the submitted proposals in order to maintain the Evaluation Committee's objectivity throughout the technical review process.

<sup>2</sup> The Evaluation Committee was comprised of five voting members and 34 subject matter experts who served as technical advisors and included representatives from the Division of Purchase and Property, Office of Management and Budget, Department of Children and Families, Treasury Division of Administration, Office of Legislative Services, Treasury Division of Revenue and Enterprise Services, and the New Jersey Office of Information Technology. Two external consultants also acted as advisors to the Committee.

requirement is insufficient to demonstrate a bidder's ability and willingness to comply with a material term of the RFP. RFP Section 3.2.1.1, as amended by Addendum #3 Part 2, provided the following as a necessary RFP requirement:

**3.2.1.1 CUSTOMIZABLE PRODUCT**

The Contractor shall provide an EDISON solution that allows for extension of the COTS software's capabilities as follows:

- Configuration and customization of the base COTS software; and
- Integration with other COTS products and State legacy systems and data warehouse.

If the Bidder is required to make changes to the code of the software product(s) being bid in order to meet the State's requirements, the Bidder must either:

- a. certify that all such code changes will be incorporated into the base software product, so that the State will not be required to modify or create custom code in order to install software product upgrades; or
- b. certify that its approach to managing all such code changes in future upgrades to the base product will not require code re-work or modification, so that the State will not be required to modify or create custom code in order to install software product upgrades.

All bidders were instructed in RFP Section 4.4.3.2.8 *Response to RFP Section 3, Statement of Work for Functional (Appendix) and Non-Function Requirements (Section 6)*, in pertinent part as follows:

**Non-Functional Requirements (Section 6):**

(Shall not exceed 60 pages in length, with no smaller than a 12 point font.)

When discussing non-functional requirements, which are listed in RFP Sections 3.2 and 3.4-3.15, the Bidder must list each requirement, and directly under each of the requirements discuss how that requirement will be met, including any assumptions, risks or issues related to satisfying that requirement. Any Bidder's proposal that does not follow this format may be deemed nonresponsive.

With the exception of RFP Section 3.2.1.1, a review of ENTAP's proposal reveals that in Section 6 of its proposal, it meticulously listed each non-functional requirement specified in RFP Section 3 and provided a response immediately below it. However, ENTAP's proposal failed to include any type of response or acknowledgement for Section 3.2.1.1. Although the proposal included the word "Response:" below this section, there was a blank space. Additionally, ENTAP's proposal failed to acknowledge the amended language of Section 3.2.1.1, which required a bidder to certify to either (a) or (b) as listed above.<sup>3</sup> Furthermore, the Bureau would not be able to seek clarification on this apparent omission, as a bidder may not revise or modify its proposal after proposal opening. N.J.A.C. 17:12-2.7(e).

While a deviation from required terms of the RFP may constitute a noncompliance, such noncompliance is not always a material deficiency. New Jersey courts have developed a two-prong test to consider "whether a specific noncompliance constitutes a substantial and hence non-waivable irregularity." Twp. of River Vale v. R. J. Constr. Co., 127 N.J. Super. 207, 216 (Law Div. 1974). The two-prong test requires a determination of

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<sup>3</sup> Rather than quote the amended language which included (a) and (b), ENTAP quoted the outdated language which merely stated: "If the Bidder is required to make changes to the code of the software product(s) being bid in order to meet the State's requirements, the Bidder must certify that all such code changes will be incorporated into the base software product, so that the State will not be required to modify or create custom code in order to install software product upgrades."

first, whether the effect of a waiver would be to deprive the municipality of its assurance that the contract will be entered into, performed and guaranteed according to its specified requirements, and second, whether it is of such a nature that its waiver would adversely affect competitive bidding by placing a bidder in a position of advantage over other bidders or by otherwise undermining the necessary common standard of competition.

[*Ibid.*; see also *Meadowbrook Carting Co., Inc. v. Borough of Island Heights*, 138 N.J. 307, 315 (1994) (affirming the two-prong *River Vale* test).]

In this case, first, ENTAP's silence on the RFP requirement contained in Section 3.2.1.1 could not provide the State the assurance that the contract would be entered into, performed, and guaranteed according to RFP specifications, as it did not acknowledge this issue related to customization of the software solution. Under the second prong, waiving this requirement would unlevel the bidders' playing field, as the State received proposals which fulfilled this requirement, and would have an impact on the price of the project. I reiterate the Evaluation Committee found that if this requirement is not met by the contractor, "every time the software is upgraded over the life of the 10-year contract, the State will be required to execute a Change Order to adapt EDISON customizations to the new version of the COTS software." Therefore, I find this omission to be a material deficiency.

ENTAP also alleges that its proposal did comply with the requirements set forth in RFP Section 4.4.3.2.8, *Response to RFP Section 3, Statement of Work for Functional (Appendix) and Non-Functional Requirements (Section 6)*, relating to the completed matrix form in RFP Attachment 2. ENTAP states "the project hours were not provided in this form as the hours were part of the overall project plan for implementation[.]" and that "[t]hird [p]arty responses to functional requirements were provided under Tabs B, D, and J" of its proposal.

RFP Section 4.4.3.2.8 required all bidders to complete the "functional" matrix in RFP Attachment 2:

The Bidder shall use the functional requirements matrix form in RFP Attachment 2 when identifying the "fit" between the COTS product being bid and EDISON Functional Requirements. All functional requirements are included in Attachment 2. Directions for completion of the response form are included at the beginning of the form. Respond only by completing the form in Attachment 2. There are no page limits applicable to the Bidder's responses included within Attachment 2. Clear, concise and complete comments may be important to the evaluation process. If the Bidder cannot document full compliance with each Functional Requirement outlined in Attachment 2, the Bidder's proposal may be deemed non-responsive.

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For each section, A through X, of the functional requirements matrix, the Bidder must include a summary statement of no more than one page regarding the "fit" of its proposed solution relative to the functional area in that section of the matrix. Within the matrix, please indicate "how" the proposed solution supports each requirement by placing an "X" or checkmark in the appropriate column, along with an estimated total number of hours and a comment, where applicable:

- Out of Box – the solution supports this requirement without the need for configuration, the integration of third-party software, or customization;
- Requires Configuration – the solution must be configured by the systems integrator to support this requirement. If the solution requires configuration, indicate the estimated number of hours for the systems integrator to configure the solution to meet this requirement. Please note that hours may be aggregated across multiple related requirements, but must be noted as such in the Comments field. For example, "Hours for requirement D-91 are included in hours for D-84.";
- Requires third-party software – the solution must be integrated with third-party software by the systems integrator to support this requirement. If the solution requires third-party software

integration, indicate the estimated total number of hours required for the systems integrator to integrate the third-party software with the solution to meet this requirement. Please note that hours may be aggregated across multiple related requirements, but must be noted as such in the Comments field. For example, "Hours for requirement D-91 are included in hours for D-84." If the solution requires third-party software integration, the Bidder must include the name of the recommended third-party software product in the comments field;

- Requires Customization – the solution must be customized by the systems integrator to support this requirement. If the solution requires customization, indicate the estimated total number of hours required for the systems integrator to customize the solution to meet this requirement. Please note that hours may be aggregated across multiple related requirements, but must be noted as such in the Comments field. For example, "Hours for requirement D-91 are included in hours for D-84."; and
- Comments – Include any assumptions, risks or issues related to satisfying each functional requirement that were used to prepare your response. Identify all instances where hours are aggregated across multiple related requirements as required above. Also identify the name of any and all third-party software that will be integrated with the solution as required above. If the Comments field is not sufficient, attach a separate sheet using the control number as a reference, and write "See Attachment" in the Comments field.

[(Emphasis added.)]

A review of ENTAP's proposal shows that the required functional matrix was incomplete for failing to include the required summary statement for each of the functional requirement areas and for failure to include the number of hours required for configuration. Of approximately 233 lines requiring configuration, ENTAP included a comment on a single line and listed no hours for any requirement. Of approximately 123 items ENTAP listed as requiring third-party software, ENTAP included the necessary hours that would be required on one line (D-93) and omitted the name of the third-party software on approximately 67 lines. The number of hours to adapt ENTAP's proposed solution to the State's needs is not included in ENTAP's project plan or in another area of ENTAP's proposal. Although ENTAP contends this information was contained in the Project Plan, as specified in RFP Section 4.4.3.2.7, the items included in the Project Plan are not itemized by hour and do not include all functional items from the matrix. The lack of this information created a gap in the proposal, as the State was unable to discern whether ENTAP would be able to perform and guarantee compliance of contract work in accord with these RFP specifications.

In conclusion, I find ENTAP's proposal to be materially non-responsive to both RFP Section 3.2.1.1 and 4.4.3.2.8. As such, I need not address the apparent deficiencies identified by the Evaluation Committee related to proposed staff members' qualifications.

### III. Affinity's Proposal

Next, ENTAP's letter of protest alleges that the proposal submitted by Affinity, the intended awardee, was non-responsive to the RFP in numerous areas, including those outlined in both Sections 3 and 4 of the RFP. ENTAP alleges that these deficiencies demonstrate that the intended award to Affinity "poses a serious risk of an inability to perform." As noted in the Recommendation Report, the Evaluation Committee found as follows regarding Affinity's proposal:

In its proposal, the Bidder committed to meeting all of the State's requirements, identified its relevant experience, and explained how it would perform the major tasks involved in the implementation of EDISON. The Committee determined that [Affinity's] proposal demonstrated an understanding of the intent of the procurement and the RFP requirements. [Affinity's] proposal described, and the State was able to verify, that [Affinity] has successfully completed comparable budgeting and hosting projects. All three of [Affinity's] key project staff met the State's requirements described in RFP Section 4.4.3.2.7.1. The Bidders' key personnel also received positive feedback during the reference checks conducted by the Committee. [Affinity's] public

sector budgeting software met the State's requirement with minimal need for configuration and customization. Additionally, [Affinity] committed to making any State-specific enhancement (customizations) parts of the base product, so that the State would not have to adapt these enhancements to new product releases. [Affinity's] approach to training, service requests and documentation was particularly good. For example, its training plan provided additional sessions after the standard training cycle to accommodate scheduling conflicts and other unanticipated events.

I address each of your contentions below.

#### A. RFP Section 3 Requirements

Regarding Section 3 of the RFP, ENTAP alleges Affinity was non-compliant with various mandatory requirements. First, ENTAP states Affinity's proposal did not "mention" XML in response to RFP Section 3.2.1.3, *Field Level Edits Check*, which requires: "The EDISON solution shall provide field level edit checks for data keyed by users and provide immediate user feedback, including error messages and possible corrective actions." However, Affinity agreed to meet all RFP requirements outlined in Sections 3.2.1.2 and 3.2.1.3 in its proposal.

In response to Section 3.5.2, *Automated Interfaces*, ENTAP states Affinity did not define the "vehicle system for loading" and the required data format. This section of the RFP required that the "[c]ontractor shall provide an EDISON solution with the capability of automated data exchange with external systems and automated interfaces to/from other OIT systems in order to maintain and synchronize data." It did not require a bidder to "define a vehicle system for loading." Rather, Attachment 8 to the RFP included all required EDISON interfaces and provided all bidders with information about the systems with which EDISON must communicate. Concerning the Interface Plan, Affinity stated that that it will develop the Interface Plan once the initial Fit-Gap Analysis is completed and that the "process will occur while system development and configuration is being undertaken." (See Affinity Proposal Section 5.05.) Because the RFP required the contractor to provide an interface plan, and not the bidder, and because Affinity not only stated how the plan will be developed but also listed all of the requirements and stated that it will comply with them in its plan, Affinity's response was sufficient. Additionally, RFP Section 3.10.1.2 required the bidder to provide its proposed Project Plan in detail, including the Work Break-down Structure, timeframes, the implementation sequence of budget software components, and additional activities related to mandatory deliverables. Affinity provided the required information in its Appendix C *Work Breakdown Structure-Project Timeline*, where it included a highly detailed plan of 483 itemized tasks to be implemented along with the projected start and end dates, predecessors, and resource names.

Regarding RFP Section 3.7.4, *Documentation*, ENTAP contends Affinity did not "provide all documentation needed to support the EDISON solution implemented." However, this section does not require a bidder to provide documentation, but rather addresses documentation the contractor shall provide as part of system implementation. In its proposal, Affinity agreed to provide all documentation. Regarding Section 3.8, *Warranties on Software and Deliverables and On-Going Maintenance*, Affinity also agreed to provide all warranties on the base software products and all software configurations and customizations made to the software products "during the course of implementing the EDISON project[.]" Likewise, in response to Section 3.9, *Service Level Requirements*, ENTAP contends Affinity did not address live-voice response requirements. However, Affinity agreed to comply with all requirements in this section.

ENTAP further argues that Affinity did not provide a Project Plan, including a Work Break-Down Structure, timeframes, and the implementation sequence of budget software components as required by RFP Section 3.10.1.2, *Work Break-Down Structure (WBS), Schedule and Implementation Sequence*. As is evident by review Affinity's proposal, Affinity addressed these requirements in its Appendix C "Work Breakdown Structure – Project Timeline." The plan submitted by Affinity included a project work break-down, timeframes, the implementation sequence, activities related to the development and acceptance of

mandatory deliverables, and the number of State and contractor staff assigned to tasks and the skill sets required.

Concerning a Security Plan and annual updates to the plan throughout the life of the contract, addressed in RFP Section 3.11.3.5, ENTAP alleges Affinity's proposal was void of the required information. Affinity did in fact include information relating to its plans for security in its Appendix B. In addition, RFP Section 3.11.3.5, *Supplemental Plans and Analyses*, required the contractor to provide certain plans to the State Contract Manager for approval. While Affinity agreed to comply with these requirements, bidders were not expected to submit full security plans with their proposals; such a plan is a contract deliverable.

In response to RFP Section 3.15, *Performance Evaluations*, ENTAP argues that Affinity's proposal did not attend to the provision "that within five business days of notice of performance issues in a performance evaluation, the Contractor shall provide a corrective action plan to the State Contract Manager in response to the notice for the correction of issues." However, the record indicates Affinity agreed to comply with these provisions. More importantly, this section concerns the contractor performance evaluation process that will be employed after contract award, and not at time of proposal submission.

#### B. RFP Section 4 Requirements

Regarding requirements specified in Section 4 of the RFP, ENTAP alleges that Affinity did not follow the instructions of RFP Section 4.1, follow the formatting required by Section 4.4, or "include the forms required in Part 1; they are in an appendix." RFP Section 4.1 advised all bidders "to thoroughly read and follow all instructions contained in this RFP . . . ." RFP Section 4.4 stated the "proposal should<sup>4</sup> be submitted in two volumes with the content of each volume as indicated[:] Volume 1[,] Part 1 – Forms (Proposal Sections 4.4.1 and 4.4.2)."<sup>5</sup> (Emphasis added.) While ENTAP does not offer specific examples of how Affinity deviated from Section 4.1 or 4.4, a review of Affinity's proposal shows it did include all required forms in its Appendix E.

As noted above in RFP Section 4.4.3.2.8 (see supra, page 3), a proposal that does not follow the outlined format may, not must, be deemed nonresponsive. Applying the two-prong River Vale materiality test, the non-compliance to formatting guidelines in Affinity's proposal did not meet the first prong of the materiality test, as the State was assured the contract would be entered into, performed, and guaranteed according to the requirements of the RFP, because the required information was located elsewhere in the proposal. I therefore need not reach the second prong and find Affinity's variance from the specified formatting requirements to be non-material.

Along these same lines, ENTAP argues that Affinity's proposal did not include a Part 2 – Technical Proposal, Part 3 – Organizational Support, or Part 4 – Mandatory Responses to RFP Attachments 2 and 11. While RFP Section 4.4 recommended a proposal be submitted in this format, it was not required. Notwithstanding ENTAP's assertion, Affinity's proposal complied with the requirements outlined in RFP Section 4.4.3.2, *Proposal Format and Contents*, which required:

#### 4.4.3.2 PROPOSAL FORMAT AND CONTENTS

The Bidder shall include each of the following sections in Volume 1, Parts 2-4 in its proposal:

Title Page  
Confidential Declarations

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<sup>4</sup> "Should" denotes that which is recommended, not mandatory; "shall or must," conversely, denotes that which is a mandatory requirement. RFP Section 2.1, *General Definitions*.

<sup>5</sup> Reflects RFP Modification contained in Addendum #1, Part 2.

Table of Contents  
Section 1: Executive Summary  
Section 2: Bidder Qualifications  
Section 3: References  
Section 4: Bidder's Financial Stability – to be provided in a separate, sealed envelope  
Section 5: Implementation and Project Management Approach and Qualifications of Personnel  
Section 6: Functional and Non-functional Requirements (RFP Attachment 2 shall be used to address each individual Functional Requirement and must be included as an Appendix to the Bidder's proposal)  
Section 7: Alternative Suggestions Related to Specific Requirements (If Applicable in a separate, sealed envelope.

Proposal Appendices:

- Mandatory Response to RFP Attachment 2;
- Mandatory Response to RFP Attachment 11;
- Resumes of Key Staff (Mandatory); and
- Discretionary Appendices (e.g.; the detailed Project Plan is mandatory but may be included in the body of the proposal or as an Appendix to the Bidder's proposal).

Indeed, Affinity's proposal followed this format and included all section headings and necessary information.

ENTAP next argues that Affinity did not comply with RFP Section 4.4.3.2.4, *Bidder Qualifications (Section 2)*, because it did not provide "information on all aspects of the budgeting process (such as publishing), as required." ENTAP also alleges Affinity's experience with the states of Wyoming and North Dakota does not "satisfy the requirement of experience with municipalities with a population of 1 million or more persons." Both of these arguments misquote the referenced section of the RFP. As amended by Addendum #2, Part 2, Section 4.4.3.2.4 required:

The proposal shall list each bullet item below, with a narrative, directly underneath the bullet item, describing how the Bidder meets the experience requirements. Failure of the Bidder to provide this information may result in the Bidder's proposal being deemed non-responsive.

In this part of the proposal, the Bidder should discuss its experience qualifications:

- The Bidder or the Bidder's subcontractor should have been in business for a minimum of five (5) years providing software solutions;
- The Bidder or the Bidder's subcontractor should have successfully completed<sup>11</sup> three (3) projects installing COTS budgeting system software in a national, State, provincial or large municipal<sup>11</sup> government environment, using the product being proposed in the Bidder's EDISON proposal;
- The Bidder or the Bidder's subcontractor should have successfully completed three (3) IT projects that include implementation of hardware and software solutions, system integration and interfaces, data conversion, and training<sup>12</sup>; and
- The Bidder or the Bidder's subcontractor should have hosted a minimum of two (2) applications for external clients within the past five (5) years.

<sup>11</sup> "Large municipal" means a municipality with a population of 1 million or more persons.

<sup>12</sup> These projects may be the same as the budgeting projects listed in the preceding bullet if the budgeting projects involved implementation of hardware and software solutions, system integration and interfaces, data conversion, and training.

As is evident by the express language of the RFP, a bidder was not required to provide information on the budgeting process, but rather its experience successfully installing budget systems. Affinity provided the required information in Section 2 of its proposal. Additionally, a bidder was required to have successfully completed three projects installing budgeting software in "a national, State, provincial or large municipal



government.” (Emphasis added.) Hence, Affinity’s experience installing its software solution for the states of Wyoming, New Hampshire, North Dakota, Kansas, and Montana fulfill this requirement.

Next, ENTAP argues Affinity failed to comply with the specifications of RFP Section 4.4.3.2.5, *References Used to Meet Bidder Qualifications (Section 3)*, requiring a bidder to include reference end dates for relevant projects and include contact information for two clients for each project listed. This section in fact stated a bidder “should,” not must, provide the requested information. A review of Affinity’s proposal shows that it did include an end date of “current” for its contracts with the states of Wyoming, New Hampshire, North Dakota, Kansas, and Montana, implying the contract has not yet ended. Although ENTAP is correct in asserting that Affinity’s proposal identified only one client contact for four out of five of its reference projects, the Bureau was able to utilize the information provided to conduct reference checks of Affinity’s past projects. As noted in the Evaluation Committee report, in conducting these reference checks, Affinity, “its software, and its personnel received very high ratings,” its references reported that Affinity’s projects “have come in on time and on budget, service and responsiveness are excellent,” and Affinity “often exceeded client expectations.”

ENTAP further argues that the Evaluation Committee “may not have taken into account the risk that it assumes [in] awarding the contract to Affinity. With only 14 employees, if they worked full-time for one year (1,880 hours) at \$150.00 per hour, their total productivity, \$3,948,000, would be less than the overall cost of the project as bid.” RFP Section 4.4.3.2.6, *Bidder’s Financial Stability (Section 4)*, as amended by Addendum #2, Part 2, required a bidder, among other things, to “be of such financial health and stability that it can withstand unanticipated delays in implementation of the project, and can draw from a pool of its own employees, or can subcontract for personnel, with experience implementing the products being proposed.” It did not mandate a minimum number of staff to be employed by a company. It also did not mandate a bidder’s proposal to include a particular organizational structure. Affinity submitted financial data with its proposal that qualified it as financially healthy and stable. As noted in the Recommendation Report, the Division’s financial analyst reviewed Affinity’s “financial information and determined that [Affinity] has the financial viability to properly meet the obligations of this RFP.” Therefore, ENTAP’s statement is without merit.

ENTAP subsequently argues Affinity failed to comply with the mandatory requirements of RFP Section 4.4.3.2.7, *Implementation and Project Management Approach and Plan and Qualifications of Personnel (Section 5)*, by not including a Project Management Methodology, a “real ‘staffing plan,’” any mention of key personnel, or personnel resumes containing start and end dates for relevant contracts, start and end dates for individual assignments, and two client contacts as references. Section 4.4.3.2.7 first required:

This section of the Bidder’s proposal shall provide project-level detail related to the Bidder’s approach to implementation, its project management methodology, proposed Project Plan and method for managing requirements throughout the project lifecycle.

The Bidder’s Project Management Methodology shall be described in this section.

The Bidder shall also include a detailed Project Plan in this section of the proposal. This plan must contain a Staffing Plan, Project Schedule and Work Breakdown Structure (WBS) incorporating all project deliverables.<sup>1</sup> The Bidder shall use the Project Plan to present the project schedule and WBS.

Affinity provided a description of its implementation approach and project management methodology in its proposal Section 5. It described its Project Management Approach in Section 5.01 and its Implementation in Section 5.08.

Next, RFP Section 4.4.3.2.7 required:

In this section of the proposal, the Bidder shall include a qualifications summary for all management and key personnel to be assigned to the contract. Detailed resumes for all management and key personnel to be assigned to the contract must be included as an attachment to the proposal. Resumes must include the following:

- A description of each relevant contract and the individual's role while assigned to that contract;
- Beginning and ending dates for the assignment of the individual to the relevant contracts;
- Beginning and ending dates for each relevant contract, in addition to the dates referred to in the second bullet above; and
- With respect to each relevant contract, the name, position, telephone number and e-mail addresses of two (2) clients to contact as a reference. These references must have served in a leadership position on the projects cited and have knowledge of how well the project was executed.

Failure to provide reference contact information may deem the proposal non-responsive.

[(Emphasis added.)]

A review of Affinity's proposal shows it included, in addition to its Project Management approach, an itemized listing of tasks to be completed at specific times in its Work Breakdown Structure – Project Timeline (Appendix C). Affinity's proposal identifies all key personnel and their relevant experience in Sections 8 and 9, and includes complete resumes of all personnel in Appendix D. These sections included a project organizational chart, which outlined the key personnel that would be assigned under the subject contract, summaries of experiences, and a complete organizational chart of the company.

While this information did not appear in Section 5, as directed in the RFP above, I again find this non-compliance with formatting guidelines to be non-material. Using the two-prong materiality test established in River Vale, and discussed supra, under the first prong, because Affinity's proposal did include the required information elsewhere in its proposal, the State was assured that the contract would be entered into, performed, and guaranteed according to the requirements of the RFP; I need not reach the second prong. Therefore, I find Affinity's variance from the specified formatting requirement to be of no consequence.

Furthermore, the submitted resumes contained sufficient information to allow the State to determine whether or not the proposed key personnel were qualified to fulfill their designated roles. As noted above, the failure to include the reference contact information as stated in Section 4.4.3.2.7 above "may deem the proposal non-responsive." The record reveals that the seven resumes submitted for the listed personnel each include, for the most part, only one contact reference per contract listed in the individual's resume. However, as reflected in Affinity's technical score and in the Evaluation Committee's report, these references were sufficient to provide the Committee guidance on each individual's relevant work experience. In conducting these reference checks, the proposed key personnel "received excellent ratings" and were "characterized as easy to work with, as well as being consistently available when needed." Therefore, I find Affinity's proposal to be responsive in this category.

ENTAP also protests that Affinity did not include "beginning and ending dates for each relevant contract" in the required resumes. However, each resume lists the individual's dates of employment with Affinity, and Affinity's proposal provided complete dates for each contract in Section 3 *References*, namely those contracts with the states of Wyoming (2001 to present), New Hampshire (2008 to present), North Dakota (1996 to present), Kansas (2001 to present), and Montana (1998 to present). Therefore, the element of the RFP requiring state and end dates to all relevant contracts was sufficiently addressed.

Concerning RFP Section 4.4.3.2.7.2, *Experience Requirements for Key Staff*, ENTAP contends Affinity violated required RFP terms by not stating its Project Manager and Budget Subject Matter Expert will be

assigned to the project full-time. ENTAP further contends that Affinity did not list appropriate experience for its Deputy Project Manager nor identify a specific person to act as its Subject Matter Expert.

The referenced section of the RFP does not address full-time requirements; rather RFP Section 4.4.3.2.7.1, *Key Project Staff*, states that a Project Manager “shall be assigned to the project full-time” and that a Budget Subject Matter Expert “shall be assigned to the implementation of the EDISON project full-time.” This RFP section required bidders to provide resumes complying with the experience requirements of RFP Section 4.4.3.2.7.2, but did not require a bidder to expressly acknowledge these positions would be assigned full-time; these are contractual obligations.

RFP Section 4.4.3.2.7.2 required a Deputy Project Manager to have at least two years of experience, “in a leadership position, installing an Information Technology system in a government environment[.]” Affinity’s proposal included the resume for its proposed Deputy Project Manager, Jesse Schauer, in Appendix D. This resume described Mr. Schauer’s B.S. in management and M.S.E. in Software Engineering, as well his prior work experience with Affinity, from 2010 to the present, on government contracts with the states of Montana, Wyoming, and North Dakota. As a Senior Technical Analyst, Mr. Shauer assisted in the development and design for the Internet Budget Analysis and Reporting System (“IBARS”) project upgrade for the state of Montana, a contract Affinity has held since 1998. Furthermore, in conducting reference checks with the state of Montana, the Bureau was advised that Mr. Shauer led the development and implementation of the publication module during the upgrade from the BARS systems to the IBARS system. In conducting a reference check with the state of Wyoming, the Bureau was advised that since 2010 Mr. Shauer has led the on-going budget system support effort. These experiences satisfy the requirements of the RFP. Affinity also listed Joseph Shaw as its “Business Analyst (Subject Matter Expert)” in Sections 8, 9, and 10 of its proposal and included his full resume in Appendix D.

ENTAP also alleges that Brent Levinson, Affinity’s proposed Project Manager, must be full-time and in New Jersey at least three days per week for two years. However, as noted in RFP Section 4.4.3.2.7.1, *Key Project Staff*:

These employees shall be designated as key project staff during the implementation phase of EDISON and shall be required to work on-site, a minimum of three (3) days per week in Trenton, New Jersey, or as otherwise agreed to with the State Contract Manager. (The State is not averse to the remote execution of certain project tasks and activities.)

[(Emphasis added.)]

Therefore, this contention is meritless.

ENTAP next raises a number of points relating to RFP Section 4.4.3.2.8, *Response to RFP Section 3, Statement of Work for Functional (Appendix) and Non-Functional Requirements (Section 6)*, namely that Affinity did not follow certain formatting guidelines. As addressed previously, Affinity provided sufficient information concerning its intended approach to the EDISON implementation and the location of the information was deemed to be non-material. A review of Attachment 2 *Functional Requirements Matrix* in Affinity’s proposal shows that it fulfilled the requirements set forth in this RFP Section (see *supra*, page 4 to 5), and that Affinity’s proposal provided the required summary descriptions, estimated number of hours if configuration required, and information related to third-party software requirements.

ENTAP seems to allege that, while RFP Section 4.4.3.2.8 requires the bidder’s solution to be Out of Box, “Affinity self-defined ‘out of the box’ to require New Jersey State staff to perform any needed configuration, integration, or customization.” However, Affinity’s proposal in fact stated:

Universally in this Attachment 2, in order to clarify “out of box” verses “requires configuration” [Affinity] has applied the following rule: Any adjustment to IBARS that is within the control of a

New Jersey IBARS system administrator (controlled typically through a maintenance screen), that allows for IBARS behavior to be adjusted to meet a New Jersey requirement, is “out of box.” Configuration that only [Affinity] can practically do is marked as “requires configuration.” Further, “out of box” system administration is a key ability used to allow IBARS to adapt to changing budget requirements during the budget cycle, and year-to-year, between cycles.

There seems to be a misunderstanding of “out of box.” Affinity’s proposal clearly marked in Tab I of the functional matrix, dedicated to “Interface with CFS and other Systems,” the number of hours Affinity would require to configure line items I-08 through I-19. When a specific functional requirement necessitated customization, the RFP stated: “the solution must be configured by the systems integrator to support this requirement. If the solution requires configuration, indicate the estimated number of hours for the systems integrator to configure the solution to meet this requirement.” According to Affinity’s proposal, its system integrator will provide different functionality from the New Jersey system administrator.

In response to RFP Section 4.4.4.2, *Organizational Charts (Volume 1, Part 3)*, ENTAP alleges that Affinity failed to identify key personnel “in the chart or in the text of this section.” As noted previously, Affinity identified its key personnel in its proposal at Sections 8 and 9, and in pages 52 through 55 of its Appendix D.

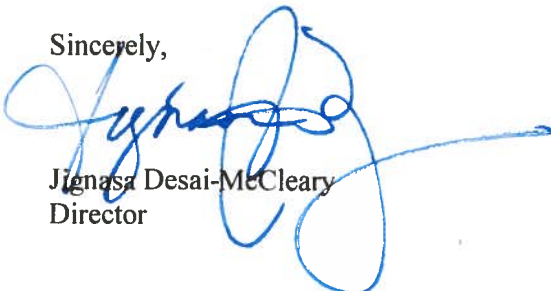
ENTAP also alleges that Affinity did not address how it will meet the security requirements outlined in RFP Section 4.4.4.3, *Response to OIT Security Requirements in RFP Attachment 11 (Volume 1, Part 4, Appendix)*. However, Affinity provided a full description of its approach to the State’s security requirements in its proposal in Appendix B.

#### IV. Conclusion

In light of the findings set forth above, I must deny ENTAP’s request that its proposal be reevaluated and that the intended award of the subject contract to Affinity be rescinded. As outlined, Affinity’s proposal was compliant with all material terms of the RFP. Any non-compliant formatting was not material to the RFP and the Bureau’s thorough evaluation of Affinity’s proposed EDISON solution assured the State that Affinity will perform all contractual obligations. This is my final agency decision on the matter.

Thank you for your interest in doing business with the State of New Jersey. I would like to take this opportunity to invite ENTAP to registering with **NJ START** at [www.njstart.gov](http://www.njstart.gov), the State of New Jersey’s new eProcurement system, scheduled to go live soon. The State welcomes ENTAP’s proposals in future solicitations.

Sincerely,



Jignasa Desai-McCleary  
Director

JD-M:DF

c: G. Olivera  
P. MacMeekin  
G. Terwilliger