



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR
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February 3, 2015

Via Electronic Mail [cwcs_proposals@cvty.us.com] and USPS Regular Mail

Julia Norquist, Sr. Strategic Proposal Writer
Coventry Workers' Comp Services
3200 Highland Avenue
Downers Grove, IL 60515

RE: Request for Acceptance of Proposal Documents as Timely Submitted
RFP #15-X-23625 –*Managed Care Workers Compensation Services (T1997)*

Dear Ms. Norquist:

This letter is in response to your emailed letter dated January 21, 2015, referencing the subject Request for Proposal (“RFP”) and requesting, on behalf of Coventry Workers’ Comp Services (“Coventry”), that the Division of Purchase and Property (“Division”) allow Coventry to submit certain RFP-required certification and signatory documents that Coventry was unable to upload to a State-established lockbox site prior to the proposal submission deadline of 2:00 p.m. EST, January 21, 2015. You explain that, prior to that time, you had uploaded some proposal documents and information but that the completion of your e-bidding effort was stymied in the moments just prior to the advertised deadline when you encountered difficulty uploading certain RFP-mandated signatory and documents as necessary to enter a Personal Identification Number (“PIN”) and thereby sign and complete the Division’s e-proposal submission process.

I have reviewed the record of this procurement in consideration of relevant statutes, regulations, and case law. In addition, I have reviewed the electronic records relating to Coventry’s uploading of documents prior to its encountering difficulty in applying its signatory PIN to indicate compliance with select RFP requirements and to commit to the provisions of the contract. This review has provided me with the information necessary to render an informed determination on the merits of Coventry’s request.

The administrative regulations that govern the Division’s advertised procurement process establish certain requirements that must be met in order for a proposal to be accepted. If the requirements of N.J.A.C. 17:12-2.2 are not met, the proposal must be rejected. These regulations are stringently enforced to maintain the equal footing of all bidders and to ensure the integrity of the State’s bidding process. N.J.A.C. 17:12-2.2(a) provides in relevant part: “In order to be eligible for

consideration for award of contract, the bidder's proposal shall . . . [b]e submitted on or before the due date and time and at the place specified in the RFP [.]”

The subject RFP establishes the following submission requirements:

1.3.2 SUBMISSION OF PROPOSAL

In order to be considered for award, the proposal must be received by the Procurement Bureau of the Division of Purchase and Property at the appropriate location by the required time. **ANY PROPOSAL NOT RECEIVED ON TIME AT THE LOCATION INDICATED BELOW WILL BE REJECTED. THE DATE AND TIME ARE INDICATED ON THE COVER SHEET. THE LOCATION IS AS FOLLOWS:**

PROPOSAL RECEIVING ROOM – 9TH FLOOR
PROCUREMENT BUREAU
DIVISION OF PURCHASE AND PROPERTY
DEPARTMENT OF THE TREASURY
33 WEST STATE STREET, P.O. BOX 230
TRENTON, NJ 08625-0230

....

1.3.3 ELECTRONIC BIDDING (EBID)

The Division is pleased to announce its electronic procurement modernization process. This RFP provides to the bidder the opportunity to electronically submit its proposal. A new electronic bidding – “eBid” – application is being made available to vendors to promote an easier, more efficient method to submit proposals.

On-line Electronic Proposal Training Sessions:

Online electronic proposal training for the eBid process is available on the web at <https://wwwnet1.state.nj.us/treasury/dpp/ebid/>. The bidder is strongly encouraged to utilize the on-line training session before attempting to submit an eBid. It will be the bidder's responsibility to ensure that the eBid has been properly submitted.

....

4.2 PROPOSAL DELIVERY AND IDENTIFICATION

In order to be considered, a proposal shall arrive at the Division in accordance with the instructions on the RFP signatory page accompanying this RFP. Bidders are cautioned to allow adequate delivery time to ensure timely delivery of proposals. **State regulation mandates that late proposals are ineligible for consideration. . . .**

[Emphasis in original]

In addition, within the segment of the subject RFP's signatory page that lists base requirements applicable to all advertised competitive procurements, the requirement for timely submission of proposals is set forth as follows:

PURSUANT TO N.J. STATUTES, REGULATIONS AND EXECUTIVE ORDERS, PROPOSALS WHICH FAIL TO CONFORM WITH THE FOLLOWING REQUIREMENTS WILL BE SUBJECT TO REJECTION:

- 1) PROPOSALS MUST BE RECEIVED AT OR BEFORE THE PUBLIC OPENING TIME OF 2:00 PM EASTERN TIME ON January 21, 2015**

. . . .

[Emphasis in original]

Thus, the need for the bidder to submit a completed proposal as mandated by the administrative rules that govern the Division's procurements was clearly and repeatedly established by the provisions of the RFP and its signatory page.

Subparagraphs within RFP Paragraph.4.4.1, *Forms, Registrations and Certifications Required with Proposal*, as part of RFP Section 4, *Proposal Preparation and Submission*, mandate completion and inclusion of the following documents as part of a responsive proposal:

- o Signatory Page
- o Ownership Disclosure Form
- o Disclosure of Investment Activities in Iran form

Absent the completion and inclusion of these forms as part of a proposal submitted prior to the established submission deadline, the proposal is materially non-responsive.

First, based upon a review of the eBid system maintained by the Department of the Treasury's eSupport unit, which oversees and manages the department's IT functions, it is established that the eBid proposal submission system was functioning before, at and after the 2:00 p.m., EST, January 21, 2015 deadline.

With regard to Coventry's need and effort in the final minutes before the proposal submission deadline to complete its uploading of required documents, I find no basis to accommodate Coventry's request to waive a base submission requirement. Just as a bidder delivering its hardcopy proposal to the RFP-defined location in Trenton has the responsibility to anticipate potential travel disruptions or other causes for delay in that effort, so, too, a bidder who has opted to prepare its proposal for electronic transmittal via the Division's eBid system is responsible for knowing and accomplishing all the steps necessary to complete that preparation and submission and for allowing time for remediation in the event of preparation and/or transmission problems or other causes of delay in that effort. Had Coventry's proposal preparation and submission effort been initiated at an earlier time, any difficulty Coventry encountered could have been timely presented to the eBid Help Desk personnel for assistance in resolving the problem. Under these circumstances, despite Coventry's apparent intent to submit a proposal for the subject contract in advance of the proposal deadline, the Division cannot accept Coventry's non-submitted documents as remedy of this material deficiency. This is my final agency determination concerning this matter.

As an aside regarding your mention in your letter that you would purposefully not include a completed Source Disclosure form with Coventry's proposal because you do not intend to engage a subcontractor, please note that Source Disclosure requirements pertain to the bidder/contractor as well as to any proposed subcontractors. The RFP requests, but does not require, its inclusion with the proposal. Also, concerning your mention of a mandatory pre-proposal conference, there was no such conference for this procurement.

Notwithstanding the unfortunate circumstances that preclude Coventry from competing for an award of the subject contract, I trust that Coventry will continue to respond to bidding opportunities offered by the Division on behalf of State using agencies. This is an unfortunate situation for the State, as the Division encourages competition and appreciates the time and effort you applied in preparing to submit a proposal.

In closing, I invite you to take this opportunity to register your business entity with [NJ START](http://www.njstart.gov) at www.njstart.gov, the State of New Jersey's eProcurement system, which is scheduled to go live in the near future. This new procurement solution will provide a "one-stop shop" for vendors to submit proposals, maintain required forms and certifications, and present purchase orders and invoices for payment.

Sincerely,



Ronald G. Wengerd
Chief Hearing Officer

c: Mary Furr, Director, WC National Accounts, Coventry [via e-mail only: mxfurr@cvty.us.com]
P. Michaels
K. Woolford
K. Anderson-Thomas