



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR
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CHRIS CHRISTIE
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ROBERT A. ROMANO
Acting State Treasurer

JIGNASA DESAI-MCCLEARY
Director

September 24, 2015

Via Electronic Mail [jdavi@med-metrix.com] and USPS Regular Mail

Joseph H. Davi, President & CEO
Med-Metrix LLC
9 Entin Road
Parsippany, NJ 07054

RE: Protest of Untimely Submission of Proposal
RFP # 16-X-23969 Data Intermediary Services for the Department of Health

Dear Mr. Davi :

This correspondence is in response to your letter of protest dated September 9, 2015, referencing the subject Request for Proposal (RFP) and regarding the intended proposal submission by Med-Metrix LLC (Med-Metrix) to the Division of Purchase and Property (Division). The record of this procurement indicates that the Procurement Bureau (Bureau) of the Division did not receive Med-Metrix's proposal submission by the deadline on 2:00 p.m. on September 4, 2015. Your letter contends that Med-Metrix attempted to hand-deliver its proposals to the Bureau by the deadline, yet "acceptance of delivery was refused" as the proposal "allegedly" arrived at 2:02 p.m. Based on the assertion that a representative of Med-Metrix signed in at the front prior to 2:00 p.m., you request Med-Metrix be permitted to submit a proposal in response to the subject RFP.

I have reviewed the record of this procurement, including the RFP, Med-Metrix's proposal, 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 Spectrum's protest.

By way of background, the subject RFP was issued by the Bureau on behalf of the Department of Health (DOH), to solicit proposals for data intermediary services between the DOH and New Jersey general & acute care hospitals and ambulatory care facilities. The intent of the RFP is to award a contract to that responsible bidder whose proposal, conforming to the RFP, is most advantageous to the State, price and other factors considered.

Med-Metrix asserts in its letter of protest that on September 4, 2015, it sent a representative to the Division of Purchase of Property to submit a hard-copy proposal, after encountering technical difficulties submitting the proposal electronically. Although Med-Metrix states that its representative signed into the

log located at the front desk “prior to 2pm,” the record shows that this individual did not arrive at the 9th floor until 2:02 p.m., at which time he was told that the Bureau could not accept the proposal.

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. 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 specified the exact location in which proposals were to be delivered:

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

Directions to the Division are available on the web at <http://www.state.nj.us/treasury/purchase/directions.shtml>.

[(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 September 04, 2015, AT THE FOLLOWING ADDRESS (NOTE: TELEPHONE, EMAIL, TELEFASCIMILE OR TELEGRAPH PROPOSALS WILL NOT BE ACCEPTED):**

**DEPARTMENT OF THE TREASURY
PROCUREMENT BUREAU, PO Box 230
33 WEST STATE STREET – 9TH FLOOR
TRENTON, NEW JERSEY 08625-0230**

[(Emphasis in original.)]

Thus, the requirement for timely submission of a proposal directly to the 9th floor Proposal Receiving Room by 2:00 p.m., as mandated by the administrative rules that govern the Division's procurements, was clearly and repeatedly established by the provisions of the RFP. As a result, despite Med-Metrix's apparent intent to deliver its proposal by the 2:00 p.m. deadline, the Division cannot accept Med-Metrix's proposal as a timely received.¹ This is the Division's final agency decision.

This is an unfortunate situation as the Division encourages competition and appreciates the time an effort put forth in preparing Med-Metrix's proposal. With the foregoing information in mind, bidders should be cognizant of the eBid and RFP instructions when submitting a proposal and to allow for sufficient time to deliver all proposals. The Division encourages Med-Metrix's participation in future solicitations and invites you to register with NJSTART, at www.njstart.gov, the State's new eProcurement system.

Sincerely,



Maurice A. Griffin
Acting Chief Hearing Officer

JD-M:DF

c: G. Olivera
J. Strype
J. Karamali
D. Rodriguez
A. Nelson

¹ I also note that following Med-Metrix's arrival, a representative from the Bureau's Proposal Receiving Unit checked the front desk log and confirmed with the guard on duty that Med-Metrix's representative had not indicated a "Time In" on the log. According to a signed statement from the guard on duty, upon the representative's departure from the building, he wrote in 1:57 p.m. as the "Time In" on the log. The representative did not enter a "Time Out."