



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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September 24, 2015

Via Electronic Mail [jkang@isysllc.com] and USPS Regular Mail

Jin Kang, President
iSYS, LLC
7926 Jones Branch Drive, Suite 520
McClean, VA 22102

RE: Protest of Notice of Proposal Rejection
RFP #16-X-23864 Telecommunications Expense Management System (TEMS) Hosted

Dear Mr. Kang :

This correspondence is in response to your letter of protest dated September 16, 2015, and received September 17, 2015, referencing the subject Request for Proposal (RFP) and regarding the proposal submission by iSYS, LLC (iSYS) to the Division of Purchase and Property (Division). The record of this procurement indicates that iSYS's proposal was rejected by the Proposal Review Unit¹ for failing to include the required *Disclosure of Investment Activities in Iran* Form. Your letter contends that iSYS uploaded all required proposal documents prior to the 2:00 p.m. deadline on August 28, 2015. Attached to iSYS's letter of protest are various screen shots used to support the contention that iSYS's proposal be considered for an award of contract.

I have reviewed the record of this procurement, including the RFP, iSYS's proposal, and relevant statutes, regulations, and case law. In addition, I have reviewed the electronic records relating to iSYS's submission. 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 the Treasury, Office of Information Technology (OIT), to solicit proposals from qualified bidders for a Telecommunications Expense Management System that will support OIT's wireline and wireless telecommunications billing responsibilities. 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.

¹ Although iSYS's protest indicates that the Notice of Proposal Rejection was received from the Hearing Unit, I note that the Division's Proposal Review Unit sent the notice.

The above-referenced solicitation was comprised of the RFP and other documents, one of which was the three-part document titled *NJ Standard RFP Forms*. This document is comprised of three expandable forms, namely an *Ownership Disclosure Form*, a *Disclosure of Investigations and Other Actions Involving Bidder Form*, and a *Disclosure of Investment Activities in Iran Form*.

These forms are addressed in RFP Section 4.0, *Proposal Preparation and Submission*. The relevant text reads as follows:

4.4.1.2 NJ Standard RFP Forms

One of the downloadable RFP documents is titled NJ STANDARD RFP FORMS. It is comprised of three separate forms, two of which (Ownership Disclosure and Disclosure of Investment Activities in Iran) discussed below, must be completed, signed and submitted with the bidder's proposal. **The bidder is cautioned that failure to complete, sign and submit either of these two forms will be cause to reject its proposal as non-responsive as noted below.** If the bidder submits a hard copy proposal, each of the two forms must be physically signed.

If the bidder is submitting an electronic proposal through the Division's eBid system, there are only two acceptable forms of signature for the two forms:

1. The bidder may download the document, physically complete and sign each form, scan the completed document and then upload it, or
2. The bidder may download the document, type the name of the signatory in the space designated for certification signature in each of the forms and then upload the document.

Note: A bidder's entry of a Personal Identification Number (PIN) will not suffice as a signature on these two forms. A signed RFP Signatory Page is also not an acceptable substitute for signature on these two forms.

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4.4.1.2.2 DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM

Pursuant to N.J.S.A. 52:32-58, the bidder must utilize this Disclosure of Investment Activities in Iran form to certify that neither the bidder, nor one of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32-56(e)(3)), is listed on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither the bidder, nor one of its parents, subsidiaries, and/or affiliates, is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If the bidder is unable to so certify, the bidder shall provide a detailed and precise description of such activities as directed on the form. A bidder's failure to submit the completed and signed form with its proposal will result in the rejection of the proposal as nonresponsive and preclude the award of a contract to said bidder.

[(Emphasis in original.)]

Pursuant to N.J.A.C. 17:12-2.2, a bidder's proposal must "[c]ontain all RFP-required certifications, forms, and attachments, completed and signed as required" or "be subject to automatic rejection." As set forth in RFP 4.4.1.2 and 4.4.1.2.2 above, the submission of a completed and signed *Disclosure of Investment Activities in Iran Form* as part of the proposal was required.

iSYS asserts in its letter of protest that upon reviewing its submission records and verification process, it confirmed that it did submit the *Disclosure of Investment Activities in Iran Form*. However, a

review of the electronic records associated with this procurement shows that iSYS's eBid proposal contained the following documents:

Purchase & Property > Purchase Bureau > eBid Openings > Submitted eBids > 8_28_2015 > 16-X-23864 > Submitted > iSYS, LLC

Submitted eBids

eBids submitted

8/28/2015 02:01 PM 16-X-23864 iSYS, LLC New: All Documents

Name	Modified	Solicitation Number	Vendor Name	eBid Document Name
146521 iSYS LLC NJRFP 16-X-23864 Co.pdf	8/28/2015 02:01 PM	16-X-23864	iSYS, LLC	
146550 iSYS NJRFP 16-X-23864 Team B.pdf	8/28/2015 02:01 PM	16-X-23864	iSYS, LLC	
146520 iSYS NJRFP 16-X-23864 Techni.pdf	8/28/2015 02:01 PM	16-X-23864	iSYS, LLC	
146513 iSYS LLC Ownership Disclosure.pdf	8/28/2015 02:01 PM	16-X-23864	iSYS, LLC	NJ Standard RFP Forms
146515 iSYS LLC WYY WidePoint Cor.pdf	8/28/2015 02:01 PM	16-X-23864	iSYS, LLC	
146516 iSYS LLC Team ComLogic SBE Co.pdf	8/28/2015 02:01 PM	16-X-23864	iSYS, LLC	
146517 iSYS LLC Team Core Technology.pdf	8/28/2015 02:01 PM	16-X-23864	iSYS, LLC	
146518 iSYS LLC Team ecomm Technolog.pdf	8/28/2015 02:01 PM	16-X-23864	iSYS, LLC	
146519 iSYS LLC Team NJRFP 16-X-238.pdf	8/28/2015 02:01 PM	16-X-23864	iSYS, LLC	
146508 iSYS LLC NJRFP 16-X-23864 Pr.xls	8/28/2015 02:01 PM	16-X-23864	iSYS, LLC	Bid Specific Forms # 0 - Price Sheet - Bidder to provide its proposal pricing on the attached State provided Price Schedule.
146509 iSYS LLC NJRFP 16-X-23864 Si.pdf	8/28/2015 02:01 PM	16-X-23864	iSYS, LLC	Signatory Page
146510 iSYS LLC NJRFP 16-X-23864 So.pdf	8/28/2015 02:01 PM	16-X-23864	iSYS, LLC	Source Disclosure Certification
146511 iSYS LLC Disclosure of Invest.pdf	8/28/2015 02:01 PM	16-X-23864	iSYS, LLC	NJ Standard Terms and Conditions

As is apparent from the above screen, in place of the document referenced as "NJ Standard RFP Forms," iSYS's proposal included a pdf document of the Ownership Disclosure Form. In place of the referenced "NJ Standard Terms and Conditions," iSYS's proposal included a pdf document of the *Disclosure of Investigations and Other Actions Involving Bidder Form*. All documents submitted through the Division's eBid system were reviewed and it was confirmed that the *Disclosure of Investment Activities in Iran Form* was not included with iSYS's proposal.

Notwithstanding iSYS's interest in competing for this procurement, it would not be in the State's best interests to allow a bidder who did not provide all required documents to be eligible to participate in the procurement process. Such acceptance would unlevel the bidders' playing field, as the State received responsive proposals in which all required documents and certifications were provided as required. The deficiency at issue cannot be remedied after the proposal submission deadline, as acceptance of iSYS's proposal under these circumstances would be contrary to the provisions of the governing statute and would provide iSYS with disclamation options not available to those bidders whose proposals were fully responsive. In light of the findings set forth above, I must deny your request for eligibility to participate in the competition for the subject contract. This is the Division's final agency decision on this matter.

This is an unfortunate situation as the Division encourages competition and appreciates the time an effort put forth in preparing iSYS's proposal. The Division encourages iSYS's participation in future

solicitations and invites you to register your company with NJSTART, at www.njstart.gov, the State's new eProcurement system.

Sincerely,



Maurice A. Griffin
Acting Chief Hearing Officer

MG:DF

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