



## State of New Jersey

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April 17, 2019

Via Electronic Mail [[Linda.Pleva@papnj.org](mailto:Linda.Pleva@papnj.org)] and USPS Regular Mail

Louis E. Baxter, MD  
President and Executive Medical Director  
Professional Assistance Program of New Jersey  
742 Alexander Road  
Princeton, NJ 08540

Re: Specification Challenge  
Bid Solicitation #169DPP00284  
T2740 – Alternative Resolution Program, Professional Assistance Monitoring Program

Dear Dr. Baxter:

This correspondence is in response to your letter dated February 14, 2019, to the Division of Purchase and Property (Division) on behalf of Professional Assistance Program of New Jersey (PAPNJ) challenging certain specifications of Bid Solicitation #19DPP00284: T2740 – Alternative Resolution Program, Professional Assistance Monitoring Program (Bid Solicitation). In that letter, PAPNJ questions certain requirements of the Bid Solicitation.

In consideration of PAPNJ's specification challenge, I have reviewed the record of this procurement, including the Bid Solicitation, 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 agency determination regarding PAPNJ's specification challenge.

By way of background, this solicitation was advertised by the Division's Procurement Bureau (Bureau) on January 4, 2019, on behalf of the Office of the Attorney General, Division of Consumer Affairs, and the New Jersey State Board of Medical Examiners. The purpose of the Bid Solicitation is to solicit Quotes to provide professional assistance to medical doctors and doctors of osteopathy licensed by the New Jersey State Board of Medical Examiners (Board) who may be suffering from substance use or abuse disorders or other additions or impairments. Bid Solicitation Section 1.1 *Purpose and Intent*. It is the Division's intent to award a Master Blanket Purchase Order (Blanket P.O.) to that responsible Vendor {Bidder} whose Quote, conforming to this Bid Solicitation is most advantageous to the State, price and other factors considered. Ibid.

In accordance with the requirements of this solicitation, questions were to be submitted electronically through the Q&A tab in **NJSTART** by January 25, 2019. The record of this procurement reveals that the only questions posted were those standard questions posed by the Bureau to assist the

bidding community to responding to the Bid Solicitation. No questions were received from potential Vendors {Bidders}.

On February 14, 2019, after the close of the Q&A period, PAPNJ wrote to the Bureau questioning certain requirements of the Bid Solicitation. That letter was forwarded to the Division's Hearing Unit and accepted as a protest of the specification in accordance with N.J.A.C. 17:12-3.1 and 3.2.

By way of summary, in its specification protest PAPNJ challenges the following terms of the Bid Solicitation:

First, as to the Diane B. Allen Equal Pay Act (Act), PAPNJ inquires whether the services to be performed pursuant to the Bid Solicitation's scope of work are "qualifying services." See, PAPNJ protest p. 1. The Act requires that the New Jersey Department of Labor and Workforce Development gather data regarding compensation, hours worked, job/occupational category, job title, gender, race, and ethnicity from State contactors performing qualifying services; however, the Act did not define "qualifying services." The Division cannot opine as to whether the services to be performed in accordance with the to the Bid Solicitation's scope of work are "qualifying services." That question should be directed to the New Jersey Department of Labor and Workforce Development who is responsible for gathering data regarding compensation, hours worked, job/occupational category, job title, gender, race, and ethnicity from State contactors performing qualifying services. For additional information please see Bid Amendment #4 which has been posted on [NJSTART](#) in connection with this Bid Solicitation.

Second, PAPNJ questions the need for the Oversight Body describe in Bid Solicitation Section 3.6 *Annual Report*.<sup>1</sup> See, PAPNJ protest p. 2. The review of PAPNJ's protest to the specifications has resulted in an amendment to Bid Solicitation Section 3.0. Please see Bid Amendment #4 which has been posted on [NJSTART](#) in connection with this Bid Solicitation.

Third, PAPNJ questions why the Annual Report discussed in Bid Solicitation Section 3.6 requires information about recidivism and client success, and questions what criteria are to be used to assess the "appropriateness of treatment, facility choices or monitoring protocols." See, PAPNJ protest p. 3. As noted above, the purpose of this Bid Solicitation is to solicit Quotes to provide professional assistance to medical doctors and doctors of osteopathy licensed by the Board who may be suffering from substance use or abuse disorders or other addictions or impairments. Bid Solicitation Section 1.1 *Purpose and Intent*. The Board is responsible for protecting the public's health and safety by determining qualifications of applicants for licensure, establishing standards for practice, and disciplining licensees who do not adhere to the licensing standards. Bid Solicitation Section 1.2 *Background*. Bid Solicitation Section 3.6 *Annual Report* states in pertinent part as follows:

The Vendor {Contractor} shall deliver an annual report to the [State Contract Manager] and the Executive Director of the Board 13 months after the contract is awarded, and annually thereafter, that shall, at a minimum:

A. Provide statistics concerning the services provided and to whom, to permit a review of recidivism and the success of the Program;

...

D. Furnish information about treatment facilities and other providers to which participants are directed to permit assessment of

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<sup>1</sup> Bid Solicitation Section 3.6 *Annual Report* was formerly Bid Solicitation Section 3.5 *Annual Report*.

appropriateness of treatment, post-treatment support, and other matters requested by the IRC;

A review of Bid Solicitation Section 3.6 indicates that the Vendor {Contractor} will not be required to review and make an assessment of the recidivism, the appropriateness of a treatment, facility choices, or monitoring protocols. Rather, the Bid Solicitation requires that the Vendor {Contractor}, as part of the Annual Report to the Board, provide statistics regarding recidivism, and other information which will permit the Board to make an assessment of the appropriateness of treatment, post-treatment support, and other matters requested by the Impairment Review Committee. As such, no change in the Bid Solicitation is necessary.

Fourth, PAPNJ has asked whether members of the Vendor's {Contractor's} clinical staff are required to be members of the Oversight Body. See, PAPNJ protest p. 3. The review of PAPNJ's protest to the specifications has resulted in an amendment to Bid Solicitation Section 3.0. Please see Bid Amendment #4 which has been posted on [NJSTART](#) in connection with this Bid Solicitation.

Finally, PAPNJ enquires about the requirement that the Vendor's {Contractor's} "clinical staff accept potential clients seven days a week, twenty-four hours a day from any source" stating that the language implies that the Vendor {Contractor} is to act as a provider of first contact as might be expected from a physician, emergency room, urgent care center, or another treatment facility. See, PAPNJ protest pp. 3-4. The review of PAPNJ's protest to the specifications has resulted in an amendment to Bid Solicitation Section 3.0. Please see Bid Amendment #4 which has been posted on [NJSTART](#) in connection with this Bid Solicitation.

Thank you for your company's interest in doing business with the State of New Jersey and for registering your company with [NJSTART](#) at [www.njstart.gov](http://www.njstart.gov), the State of New Jersey's new eProcurement system.

Sincerely,



Maurice Griffin  
Acting Director

MAG: RUD

c: P. Michaels  
L. Spildener  
E. Merritt