



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR
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Telephone (609) 292-4886 / Facsimile (609) 984-2575

January 2, 2014

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

Paula Hoppe
Director, Business Development
iSYS, LLC
7926 Jones Branch Drive, Suite 520
McLean, VA 22102

RE: Protest of Notice of Proposal Rejection
RFP #14-X-22872 Telecommunications Expense Management System (TEMS)

Dear Ms. Hoppe:

This letter is in response to your email received December 18, 2013, referencing the subject Request for Proposal (“RFP”) and regarding the proposal submitted by iSYS, LLC (“iSYS”) to the Division of Purchase and Property (“the Division”). The record of this procurement notes that iSYS’s proposal was rejected for failure to submit in a timely manner. Your letter requests I reconsider the rejection of iSYS’s proposal in light of your contention that you encountered an error, of no fault of your own, while validating your Personal Identification Number (PIN) to complete the proposal submission.

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 iSYS’s protest.

The proposal opening date of the subject RFP was 2:00 p.m. on December 17, 2013. The electronic records of the subject RFP show that eight vendors successfully submitted proposals by the submission deadline, and that the eBid system was fully functioning up until the submission deadline.¹ The Division’s eSupport records show that iSYS submitted two questions

¹ I note that both iSYS and another successful bidder both uploaded documents at approximately 1:55 p.m.

at approximately 2:25 p.m. and 2:56 p.m. on December 17, 2013, seeking assistance in the submission process. The first email received stated, "We were submitting our proposal in response to RFP #14-X-22872 and encountered a PIN error. We tried to reset and were unable to do so. To complicate this scenario, our colleague who registered us with eBid is out of the office" The second email also stated, "While submitting our proposal in response to RFP #14-X-22872 today, we encountered an error with the PIN validation process. We tried to reset and were unable to do so. . . ."

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 further provides:

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

....

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. **THE EXTERIOR OF ALL PROPOSAL PACKAGES ARE TO BE LABELED WITH THE PROPOSAL IDENTIFICATION NUMBER AND THE FINAL PROPOSAL SUBMISSION DATE OR RISK NOT BEING RECEIVED IN TIME.**

[(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 REJECTIONS:**

- 1) PROPOSALS MUST BE RECEIVED AT OR BEFORE THE PUBLIC
OPENING TIME OF 2:00 PM EASTERN TIME ON DECEMBER 17, 2013**

....

[(Emphasis in original.)]

Thus, the requirement for timely submission of a signed and sealed proposal as mandated by the administrative rules that govern the Division's procurements were clearly and repeatedly established by the provisions of the RFP. As a result, despite iSYS's apparent intent to submit a proposal for the subject contract in advance of the proposal deadline, under the provisions set forth above the Division cannot accept iSYS's uploaded documents as a timely submitted, signed proposal.

Furthermore, in the event that iSYS had not encountered a problem validating its PIN, a review of the uploaded documents reveals that the *NJ Standard Forms* was incomplete, therefore rendering the submission non-responsive. 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. However, the uploaded document only contained page 1 of the five-page packet.

Notwithstanding the unfortunate circumstances concerning iSYS's effort to secure an award of the subject contract, I trust you will continue to respond to bidding opportunities offered by the Division on behalf of State using agencies. I do encourage earlier initiation of future submissions and I look forward to your company's continuing interest in doing business with the State of New Jersey.

Sincerely,



Ronald G. Wengerd
Chief Hearing Officer

RGW:DF

c: L. DuBois
K. Moore
P. MacMeekin
J. Strype
D. Rodriguez