



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR
33 WEST STATE STREET
P. O. BOX 039
TRENTON, NEW JERSEY 08625-0039

ANDREW P. SIDAMON-ERISTOFF
State Treasurer

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

JIGNASA DESAI-MCCLEARY
Director

Telephone (609) 292-4886 / Facsimile (609) 984-2575

March 6, 2014

Via Electronic Mail [mcurrie@targetedadgroup.com] and USPS Regular Mail

Marla Currie
President
Targeted Advertising Group, Inc.
7 Woodcliff Ave.
Woodcliff Lake, NJ 07677

RE: Protest of Notice of Proposal Rejection
RFP #14-X-23215 Advertising and Public Relations Services: Department of Health

Dear Ms. Currie:

This letter is in response to your facsimile¹ received February 26, 2014, , referencing the subject Request for Proposal (“RFP”) and regarding the proposal submitted by Targeted Advertising Group, Inc. (“TAG”) to the Division of Purchase and Property (“the Division”). The record of this procurement notes that TAG’s proposal was rejected as not timely submitted. Your letter contends that TAG’s original proposal was timely submitted prior to the RFP’s original due date, January 17, 2014, and that TAG’s addendum package arrived past the revised submission date, February 14, 2014, due to the closure of FedEx following the nor’easter that struck the State of New Jersey on February 13, 2014.

I have reviewed the record of this procurement, including the RFP, TAG’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 TAG’s protest.

The record of this procurement indicates that the original Proposal Submission Date of the subject RFP was January 17, 2014, at 2:00 p.m. On January 15, 2014, Addendum #1 revised the Proposal Due Date to February 14, 2014, and instructed all bidders to “ensure that all changes are incorporated into the original RFP.” The Division’s Proposal Review Unit log notes that it received a proposal from TAG on January 17, 2014, at approximately 10:49 a.m. Thereafter, the record reveals TAG submitted a second proposal, which was received on February 18, 2014, at approximately 12:41 p.m.

The administrative regulations² 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

¹ Your facsimile communication is accepted as a timely letter of protest.

² The Division’s administrative rules governing its procurement programs are set forth in N.J.A.C. 17:12. These rules can be accessed at <http://www.state.nj.us/treasury/purchase/AdminCode.shtml>.

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

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

Note: Bidders using U.S. Postal Service regular or express mail services should allow additional time since the U.S. Postal Service does not deliver directly to the Procurement Bureau.

Procedural inquiries concerning this RFP may be directed to RFP.procedures@treas.state.nj.us. This e-mail address also may be used to submit requests to review proposal documents. The State will not respond to substantive questions related to the RFP or any other contract via this e-mail address.

To submit an RFP or contract related question, go to the Current Bidding Opportunities webpage or to <http://eBid.nj.gov/QA.aspx>.

1.3.3 ELECTRONIC BIDDING (EBID)

Not applicable to this procurement.

.....

4.2 PROPOSAL DELIVERY AND IDENTIFICATION

In order to be considered, a proposal must 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 February 14, 2014,
AT THE FOLLOWING ADDRESS (NOTE: TELEPHONE, EMAIL,
TELEFACSIMILE 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 requirements 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. Accordingly, the original submission by TAG on January 17, 2014, is accepted as a timely proposal and will be considered in the competitive bid review. Despite TAG's intent to submit a second package containing a proposal or an embellishment of its original submitted proposal for the subject contract in advance of the revised Proposal Due Date, the Division cannot accept the contents of this second package. Regarding TAG's engagement of Federal Express to act as its agent to deliver the proposal in a timely manner, the Division cannot accept responsibility for the actions or inactions of the bidder or its agent(s).

Thank you for your correspondence with the Division. In the future, I encourage earlier initiation of submissions. The Division looks forward to your continued interest in doing business with the State of New Jersey.

Sincerely,



Ronald G. Wengerd
Chief Hearing Officer

RGW:DF

c: L. DuBois
E. Mackay
D. Fantini
M. Tagliaferri
D. Rodriguez