



State of New Jersey

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

May 9, 2014

Via Electronic Mail [glen_gray@compaid.com] and USPS Regular Mail

Glen Gray
Branch Manager
CAI (Computer Aid, Inc.)
500 Creek View Road
Newark, DE 19711

RE: Protest of Notice of Proposal Rejection
RFP #14-X-23468 Homeland Security Fusion Center Analyst Services (T2983)

Dear Mr. Gray:

This letter is in response to your email received May 7, 2014, referencing the subject Request for Proposal (“RFP”) and regarding the proposal submitted by CAI (Computer Aid, Inc.) to the Division of Purchase and Property (“the Division”). The record of this procurement notes that CAI’s proposal was rejected due to a missing *Disclosure of Investment Activities in Iran* form. In your email, you acknowledge it was “certainly an error on [your] part” and request that I reconsider the rejection of CAI’s proposal and permit CAI to complement its proposal by acceptance of the missing *Disclosure of Investment Activities in Iran* form, included as an attachment to your protest.

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

The above-referenced solicitation was comprised of the RFP and other documents. Under Section 4.0 *Proposal Preparation and Submission*, the RFP stipulates the following:

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) shall not suffice as a certifying signature on the forms comprising the NJ STANDARD RFP FORMS document. [(Emphasis in original.)]

....

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 non-responsive and preclude the award of a contract to said bidder.** [(Emphasis added.)]

Pursuant to N.J.A.C. 17:12-2.2,¹ 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 4.4.1.1 and 4.4.1.2.2, a bidder's failure to complete and submit the *Disclosure of Investment Activities in Iran* form "will result in rejection of the proposal as non-responsive and preclude the award of a contract[.]"

¹ 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>.

In this case, CAI failed to include the *Disclosure of Investment Activities in Iran* form in its proposal submission. Notwithstanding CAI'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 the required certifications 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 necessary documents and information were provided as required. The deficiency at issue cannot be remedied after the proposal submission deadline, as acceptance of CAI's proposal under these circumstances would be contrary to the provisions of the governing statute and would provide CAI 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 my final agency decision on this matter.

This is an unfortunate situation for the State, as we encourage competition and appreciate the time and effort put forth in preparing CAI's proposal. Thank you for your continued interest in doing business with the State of New Jersey.

Sincerely,

Ronald G. Wengerd
Chief Hearing Officer

RGW:DF

c: L. DuBois
M. Quinn
J. Kemery
J. Ballard
D. Rodriguez