



# State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY

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June 28, 2018

Via Email [mike@rtzsystems.com] and USPS Regular Mail

Mike Zawadski, President  
RTZ Systems  
150 Grand Avenue  
Oakland, CA 94612

Re: Protest of Notice of Cancellation  
I/M/O Bid Solicitation #16DPP00008  
Bid Solicitation Title: DoAS Care/Case Management Systems

Dear Mr. Zawadski:

This letter is in response to your correspondence of January 30, 2018, to the Division of Purchase and Property (Division) on behalf of RTZ Systems (RTZ). In that letter, RTZ protests the Division's Procurement Bureau's (Bureau) decision to cancel Bid Solicitation #16DPP00008 - DoAS Care/Case Management Systems (Bid Solicitation).<sup>1</sup>

## **BACKGROUND**

By way of background, the New Jersey Department of Human Services (DHS) – Division of Aging Services (DoAS) administers federal and State-funded programs and services, making it possible for seniors

<sup>1</sup> For consistency, this final agency decision uses terminology employed by the State of New Jersey's **NJSTART** eprocurement system. For ease of reference, the following is a table which references the **NJSTART** term and the statutory, regulatory and/or legacy term.

<b>NJSTART Term</b>	<b>Statutory, Regulatory and/or Legacy Term</b>
Bid Solicitation	Request For Proposal
Bid Amendment	Addendum
Change Order	Contract Amendment
Master Blanket Purchase Order	Contract
Offer and Acceptance Page	Signatory Page
Quote	Proposal
Vendor {Bidder}	Bidder
Vendor {Contractor}	Contractor

and caregivers to live in the community as long as possible with independence, dignity and choice. Bid Solicitation § 1.2 *Background*. DoAS serves over 500,000 individuals through 500 community provider agencies. *Ibid*. In 2013 DoAS commenced the development of a scope of work with a goal of soliciting Quotes for a cloud-based solution that is configurable and/or customizable to meet the State's requirements for the care and case management of individuals served by DoAS which will satisfy the federal reporting requirements related to these individuals. Bid Solicitation § 1.1 *Purpose and Intent*. The "business objective" of the project was "to procure an end to end integrated solution for the care and case management of individuals served by DoAS." Bid Solicitation § 1.21 *Key Requirements*. Specifically,

The proposed solution, referred to herein as the Care/Case Management System (C/CMS), will include the following benefits:

- Allow end to end visibility through an all-inclusive system tracking multiple programs and services provided by an individual being served by the DoAS;
- Eliminate manual processes being used currently;
- Consolidate existing systems which currently work independent of each other, resulting in disparate systems and duplicate information;
- Create an integrated database resulting in data residence in one database;
- Provide accurate and timely reporting capabilities;
- Allow DoAS to serve individuals through a single interface with all required information available through that single interface; and
- Functionality for DoAS to manage and electronically implement any proposed Medicaid changes such as Comprehensive Medicaid Waiver, Consolidated Assistance Support System, and the new Medicaid Management Information System, as examples. Any and all of these could require changes to our networks, amending existing interfaces, as examples...

[*Ibid*.]

On November 25, 2015, the Bureau issued the subject Bid Solicitation on behalf of DoAS. The intent of the Bid Solicitation was to award a Blanket P.O. to that responsible Vendor {Bidder} whose Quote, conforming to the Bid Solicitation, was most advantageous to the State, price and other factors considered. Bid Solicitation § 1.1 *Purpose and Intent*. The Bid Solicitation specified numerous requirements for Intake, Assessment, Enrollment, Case Management and Service Delivery, Incident Management, DoAS Web Portal, Reporting, System Interfaces, Interface, System Administration, System Security, and other General Requirements for the Care/Case Management System. Bid Solicitation § 3.0 *Scope of Work*.

On February 5, 2016, four Quotes were received by the submission deadline which were opened and reviewed for administrative completeness by the Division's Proposal Review Unit. All the Quotes received were forwarded to the Bureau. The Bureau provided those four Quotes to the Evaluation Committee (Committee) for review and evaluation consistent with the criteria set forth in the Bid Solicitation Section 6.7.1 *Technical Evaluation Criteria* which stated:

Each criterion will be scored and each score multiplied by a predetermined weight to develop the Technical Evaluation Score.

- a. Personnel: The qualifications and experience of the Vendor's {Bidder's} management, supervisory, and key personnel assigned to

the Blanket PO {Contract}, including the candidates recommended for each of the positions/roles required.

- b. Experience of firm: The Vendor's {Bidder's} documented experience in successfully completing contracts of a similar size and scope in relation to the work required by this Bid Solicitation {RFP}.
- c. Ability of firm to complete the Scope of Work based on its Technical Quote {Proposal}: The Vendor's {Bidder's} demonstration in the quote {proposal} that the Vendor {Bidder} understands the requirements of the Scope of Work and presents an approach that would permit successful performance of the technical requirements of the Blanket PO {Contract}.

Following the completion of the evaluation, on September 14, 2016 the Bureau issued a Notice of Intent to Award (NOI) advising all Vendors {Bidders} of the State's intent to award a Master Blanket Purchase Order (Blanket P.O.) to RTZ. Subsequent to the issuance of the NOI, on September 28, 2016, Mediware filed a protest challenging the intent to award a Blanket P.O. to RTZ. In its protest, Mediware asserted that the Committee's determination that its Quote was non-responsive for failing "to include the full price and all estimated work within the price sheet [it] provided" was in error. Mediware explained that its responses to the State's requests for clarification indicated its pricing was a "firm fixed price" for the entire project. Mediware argued that its Quote should have been found responsive and considered for an award of Blanket P.O. In the Division's April 13, 2017 final agency decision, I concluded that the Bureau's determination that Mediware's pricing was "artificially low" was not supported by the record. A business is permitted to operate at a loss or below market-value, provided it is able to provide the services as required by the Bid Solicitation. Absent an allegation of fraud or collusion, such a business decision is the prerogative of the bidding entity. Therefore, I directed that the NOI be rescinded and the matter be remanded to the Bureau for further review and evaluation.

After further evaluation, and having been contacted by DoAS, on January 30, 2018 the Bureau, by way of letter to all Vendors {Bidders}, advised that the procurement was being cancelled. Specifically, the Bureau advised that DoAS "requirements and programs have changed since this Bid Solicitation {RFP} [was] advertised. Further the DoAS has determined it will support and maintain its current system, so the Bid Solicitation will not be reissued." See, Bureau's January 30, 2018 letter.

On that same date, RTZ wrote to the Division protesting the cancellation of the procurement. Specifically, RTZ alleges: (1) a decision to *de facto* award a contract to a losing bidder through a closed process that excluded the winning bidder cannot be in the public interest; (2) there have not been any out of the ordinary industry changes that have occurred during the pendency of this procurement that would render the procurement invalid; and (3) the standard set forth in the New Jersey Administrative Code to ensure a fair and timely procurement process was not followed. RTZ asks that the Bureau's decision to cancel the procurement be overturned.

In consideration of RTZ's protest, I have reviewed the record of this procurement, including the Bid Solicitation, the proposals and protests, the relevant statutes, regulations, and case law. This review of the record has provided me with the information necessary to determine the facts of this matter and to render an informed Final Agency Decision on the merits of the protest. I set forth herein the Division's Final Agency Decision.

## DISCUSSION

New Jersey statutory and regulatory laws governing public procurement require that an “award shall be made with reasonable promptness, after negotiation with bidders where authorized, by written or electronic notice to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the State, price and other factors considered.” N.J.S.A. 52:34-12(a); N.J.A.C. 17:12-2.7(g).

The New Jersey Courts have long recognized that the purpose of the public bidding process is to “secure for the public the benefits of unfettered competition.” Meadowbrook Carting Co. v. Borough of Island Heights, 138 N.J. 307, 313 (1994). To that end, the “public bidding statutes exist for the benefit of the taxpayers, not bidders, and should be construed with sole reference to the public good.” Borough of Princeton v. Board of Chosen Freeholders, 169 N.J. 135, 159-60 (1997) (emphasis added). The objective of New Jersey’s statutory procurement scheme is “to guard against favoritism, improvidence, extravagance and corruption; their aim is to secure for the public the benefits of unfettered competition.” Barrick v. State of New Jersey, 218 N.J. 247, 258. (2014); citing, Keyes Martin & Co. v. Dir. of Div. of Purchase and Prop., 99 N.J. 244, 256 (1985). Consistent with this purpose, the New Jersey procurement law provides that “any or all bids may be rejected when the State Treasurer or the Director of the Division of Purchase and Property determines that it is in the public interest so to do.” Ibid.

The Appellate Division has held that “where the contracting authority has rejected all bids after opening and publicizing them...and each bidder's competitive position has been exposed, rejection of all bids should only occur for cogent or compelling reasons.” In re Failure to Award to the Lowest Responsible Bidder RFP 09-X-20513 Contract T0002 for Provision of Bottled Water Servs., 2010 N.J. Super. Unpub. LEXIS 1641, \*7 (App. Div. July 2, 2010). Here, the Bureau determined that it was in the public interest to cancel the Bid Solicitation. As discussed below, this decision was based on both cogent and compelling reasons.

In its protest, RTZ alleges that “[t]here have been no out of the ordinary industry changes that occurred during this period that rendered the procurement invalid.” (RTZ protest, p. 1). In the notice of cancellation, the Bureau advised that the DoAS requirements and programs have changed since the Bid Solicitation was advertised almost three years prior. As detailed below, those changes are due in part to industry changes – for example, the federal reporting requirements. See, Bureau January 30, 2018 letter. In support of the cancellation, the Bureau’s January 19, 2018 Recommendation Report stated:

- A. Agency requirements have changed:
  - a. The Bid Solicitation requested a new solution; however, DoAS has determined it will maintain its existing system and will expand and enhance the current system to meet its needs. No hosting is needed.
- B. DoAS Programs have changed:
  - a. The implementation of Managed Long Term Services and Supports (MLTSS) has altered its process of determining “clinical” eligibility for Medicaid services; the “Fast Track” process, which required flagging and tracking a client record, creating an interface and sending notifications to a program office, has been eliminated.
  - b. The Replacement Medicaid Management Information System requirements have changed. Interface requirements will have to be reconsidered; and

- c. Adult Protective Services federal reporting requirements have changed, and interface for federal reporting is now required.

[January 19, 2018 Recommendation Report, p. 2.<sup>2</sup>]

As noted above, the development of the Bid Solicitation requirements commenced in 2013, was completed in 2015, and was in various stages of evaluation and award through 2017. Since that time, there have been changes to needs and requirements of DoAS with respect to the Care/Case Management System (C/CMS) as outlined below. Those changed needs and requirements have a significant impact on the scope of work set forth in the Bid Solicitation.

With respect to the DoAS program requirements: (1) the implementation of Managed Long Term Services and Supports (MLTSS) has altered its process for determining “clinical” eligibility for Medicaid services; (2) changes in DoAS’ program operations has resulted in the elimination of the “Fast Track” program which required the flagging and tracking of client records, the creation of an interface and the sending of notifications to a program office;<sup>3</sup> (3) the Replacement Medicaid Management Information System (MMIS) requirements have changed and therefore the interface requirements must be reviewed and possibly revised; and, (4) the Adult Protective Services federal reporting requirements have changed which will now require that an interface for federal reporting be created and employed. Implementing any of these program changes after awarding a Blanket P.O. in response to the subject Bid Solicitation would require that the Division and DoAS immediately do a contract amendment that would necessarily and significantly alter the scope of work originally solicited. Therefore, the Bureau determined that the best and fairest course for the bidding community, and the most advantageous course for the State was to cancel the subject procurement.

Further, since the Bid Solicitation was advertised in 2015, the State’s Division of Medical Assistance and Health Services (Medicaid) has developed an online portal for use by its consumers to submit applications for various Medicaid programs. Medicaid and DoAS have a similar and overlapping consumer base; therefore, it was determined that employing the same system would improve the efficiency of service and the administration of their respective programs as consumers and State and County workers would use similar, if not identical, online portal systems to submit and review program applications.<sup>4</sup> Medicaid has agreed, and is working toward configuring its online portal to meet DoAS’ specific application needs. Specifically for consumers to submit applications for Pharmaceutical Assistance for the Aged and Disabled (PAAD) and other benefit programs and services. Use of the configured Medicaid online portal system eliminates and/or modifies many of the requirements of the Bid Solicitation related to the online portal system.<sup>5</sup>

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<sup>2</sup> In response to its January 30, 2018 OPRA request, RTZ was provided with a copy of the January 19, 2018 Recommendation Report.

<sup>3</sup> The Fast Track Program allows an individual to obtain interim Medicaid eligibility for 90 days and avail him/her-self of all services covered by Medicaid State Plan. The individual must separately apply for Medicaid through County Welfare Agency to ensure continued services post the 90 day period. *See*, Bid Solicitation § 2.2.2 *Contract Specific Definitions*.

<sup>4</sup> Using the Medicaid online portal benefits the consumer base by streamlining the application process. Currently, applications have to be completed and physically mailed or faxed in. The portal eliminates that cumbersome process. The application verification process is also simplified, resulting in a faster approval process.

<sup>5</sup> Until Medicaid and DoAS are able to configure Medicaid’s online portal to meet DoAS’ specific application needs, DoAS will continue to work with its current vendor to meet the program needs that will ultimately be transferred to the Medicaid online portal.

The Bid Solicitation requirements that are eliminated or modified because of DoAS' intent to utilize the Medicaid portal are detailed below.

The following requirements in Table 1 are no longer needed as they are duplicative of the functionality of the Medicaid portal.

**Bid Solicitation Table 1 – Intake Requirements**

Req. Number	The proposed solution must:
INT010	Display SBUM <sup>6</sup> data regarding SBUM's programs for individuals existing in the system, including the following minimum information on the Medicare Savings Program: <ul style="list-style-type: none"> <li>• Protective Filing Date;</li> <li>• Date application received; and</li> <li>• Date eligibility determined based on the access level of the user, etc.</li> </ul>
INT011	Display the eligibility status of an individual's application for SBUM's programs for individuals existing in the system. Once it has been determined by SBUM, the status shall be visible based on the access level of user.
INT027	Flag an individual's record to indicate potential Fast Track eligibility, after prescreening for potential Medicaid eligibility.
INT035	Interface with SBUM's system to send and receive information regarding SBUM's programs.
INT036	Interface with SBUM's system for financial eligibility for Fast Track or State-funded programs.

The following requirements of Table 6 are no longer necessary as consumers, State and County workers will have access to submit, review and recover applications in the Medicaid portal. Additionally, the Medicaid portal includes much of the required functionality identified in the Bid Solicitation.

**Bid Solicitation Table 6 – DoAS Web Portal Requirements**

Req. Number	The proposed solution must:
PTL005	Allow users to complete and submit online applications for services based on results of screening. E.g. PAAD.
PTL007	Allow individuals and/or their representatives to have view only access to a subset of the data stored about the individual including: <ul style="list-style-type: none"> <li>• Demographic data; and</li> <li>• Plan of Care details.</li> </ul>
PTL008	Provide a secure, intuitive, user friendly portal with role-based access enabling viewing and maintenance of information, meeting all applicable federal and New Jersey State standards. <i>(An example of this is Providers will have access to electronic forms such as E-Arcs while individuals will not have access to forms that are not relevant to them)</i>
PTL014	Support the creation and sending of group e-mails to all DoAS registered providers and consumers as defined by a user specified distribution list.
PTL029	Provide for computer based training and video based courses via the DoAS Portal for training stake holders on the use of DoAS Portal.
PTL039	Provide secure access to the applications.

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<sup>6</sup> Senior Benefits Utilization Management

PTL040	Route provider applications, and collect and process provider enrollment and status information (e.g. JACC program-Applications Attachment 2).
PTL041	Allow providers to track the status of their application for enrollment. The status shall include: <ul style="list-style-type: none"> <li>• Pending status;</li> <li>• Approval; and</li> <li>• Rejection of their applications.</li> </ul>
PTL042	Support communications to and from providers. Track and monitor responses to those communications.
PTL043	Store provider enrollment related information including: <ul style="list-style-type: none"> <li>• Date of approval; and</li> <li>• Authorized Services</li> </ul>
PTL044	Generate information requests, correspondence, or notifications based on the status of the application for enrollment.
PTL045	Use consistent provider naming conventions to differentiate between first names, last names, and business or corporate names and to allow flexible searches based on the provider name.
PTL046	Track and support any established provider review schedule to ensure providers continue to meet program eligibility requirements.

The following requirement of Table 9 is no longer necessary as the Fast Track Program was eliminated.

**Bid Solicitation Table 9 – Interface Requirements**

Req. Number	The proposed solution must:
INF004	Interface with SBUM's system for financial eligibility for Fast Track or State-funded programs.

Moreover, at the time that the Bid Solicitation was advertised and the Quotes received, DoAS could not anticipate the changes brought about by the termination of the CASS project and the replacement MMIS system would have on the scope of work of this Bid Solicitation. Changes to the MLTSS clinical eligibility may further eliminate the requirements for assessments found in Bid Solicitation Section 3.2.2 Assessment (Level 2 Functional) Table 2 – Assessment Requirements (ASM001-026).

Finally, in response to RTZ’s statement that there have not been any industry changes, I note that there are new federal requirements which are not included in the Bid Solicitation, but are necessary to be addressed. Specifically, an interface for the federal reporting of Adult Protective Services (APS) data National Adult Maltreatment Reporting System (NAMRS) is needed. Referrals made by APS to other agencies must be tracked; APS field staff need to have mobile access; critical incident monitoring and reporting for MLTSS beneficiaries is needed; and a potential interface with new the eligibility system will be needed. These requirements would need to be met by any new system and as noted above, simply awarding a contract under the current Bid Solicitation, with the understanding of all of the changed circumstances outlined above, and then immediately amending the contract to incorporate the new requirements would not be fair to the bidding community, nor is it in the best interest of the State or its tax payers.

**CONCLUSION**

Based upon the foregoing, I find no reason to disturb the Bureau's recommendation that the subject Bid Solicitation be cancelled. Accordingly, I sustain the January 30, 2018, cancellation. However, to the extent that the Bureau's January 30, 2018 letter stated that the "Bid Solicitation will not be reissued," I note only a portion of the scope work sought by DoAS will be covered by the Medicaid portal; and therefore, it will be necessary to procure a system to cover those remaining services. Therefore, I direct DoAS and the Bureau to review and revise the scope of the work in order to obtain those remaining services, as many be necessary, through an available procurement means.

This is my final agency decision with respect to the protest submitted by RTZ Systems.

Thank you for your company's continuing 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 eProcurement system.

Sincerely,



Maurice A. Griffin  
Acting Director

MAG: RUD

c: L. Leonardi  
M. Tagliaferri  
J. McGowan