



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

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

ANDREW P. SIDAMON-ERISTOFF
State Treasurer

JIGNASA DESAI-MCCLEARY
Director

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

October 2, 2014

Via Electronic Mail [tsakota@vecna.com] and USPS Regular Mail

Tashi Sakota
Deputy General Counsel
Vecna Technologies, Inc.
36 Cambridgepark Dr.
Cambridge, MA 02140

RE: Protest of Notice of Proposal Rejection
RFP #14-X-23116 Scheduling and Timekeeping System for Multi-Shift Operations

Dear Mr. Sakota:

This letter is in response to your letter dated and received September 16, 2014, referencing the subject Request for Proposal ("RFP") and regarding the proposal submitted by Vecna Technologies, Inc. ("Vecna") to the Division of Purchase and Property ("the Division"). The record of this procurement notes that Vecna's proposal was rejected by the Proposal Review Unit as not timely submitted. Your letter contends that Vecna's proposal was properly submitted through the Division's eBid system by the RFP's revised due date, June 10, 2014.

I have reviewed the record of this procurement, including the RFP, Vecna'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 Vecna's protest.

The record of this procurement indicates that the original proposal submission date of the subject RFP, September 4, 2013, was extended several times through posted addenda. The final revised proposal submission due date was June 10, 2014, at 2:00 p.m. The RFP provided the following guidance on the submission of proposals:

4.3.1 EBID SUBMISSION OF PROPOSAL

If the Bidder is submitting an eBid proposal, hard copy submission is still required. Instructions detailing how to enroll in and submit an eBid are available on the web at <https://wwwnet1.state.nj.us/treasury/dpp/ebid/>. If the Bidder submits both an eBid and a hard copy of the Bidder's proposal, the eBid proposal will prevail in the event of a discrepancy between the electronic and paper versions. When submitting on eBid, do not use any symbols (i.e.#,@,&,*) in the filename.

4.3.2 NON-EBID SUBMISSION

The Bidder must submit the following proposal copies:

One (1) complete ORIGINAL proposal, clearly marked as the "ORIGINAL" proposal.
FIVE (5) complete and exact copy (ies), clearly marked "COPY".

One (1) unbound, complete and exact copy of the original, clearly marked "COPY."

One (1) complete and exact ELECTRONIC copy of the original proposal in an editable and "writable" PDF file format on disc (CD or DVD) for redaction.

Copies are necessary in the evaluation of the proposal and for record retention purposes. A Bidder failing to provide the requested number of copies will be charged the cost incurred by the State in producing the requested number of copies. The Bidder should make and retain a copy of its proposal.

[(Emphasis in original.)]

Vecna properly submitted a complete electronic proposal through the Division's eBid system by 2:00 p.m. on June 10, 2014. Thereafter, Vecna mailed to the Division via FedEx® the appropriate hard copies and CD, which arrived on June 11, 2014, at 8:36 a.m. The Division's Hearing Unit confirmed that the electronic proposal, hard copies, and CD files are identical.

"The public interest underlies the public-bidding process in [New Jersey]." Barrick v. State, 218 N.J. 247, 258 (2014). Our "public bidding statutes exist 'for the benefit of the taxpayers and . . . their aim is to secure for the public the benefits of unfettered competition.'" Ibid. (quoting Keyes Martin & Co. v. Dir., Div. of Purchase & Prop., 99 N.J. 244, 256 (1985)). Because the electronic proposal was timely received and "the eBid proposal will prevail in the event of a discrepancy between the electronic and paper versions," I therefore reverse the decision of the Proposal Review Unit and reinstate Vecna's proposal as timely received. The Procurement Bureau is directed to include Vecna's proposal in its review of the subject RFP.

Thank you for your interest in doing business with the State of New Jersey. I invite you to take this opportunity to register your business with **NJ START** at www.njstart.gov, the State of New Jersey's new eProcurement system, which is scheduled to go live this fall and will provide a "one-stop shop" for vendors to submit proposals, maintain required forms and certifications, and present purchase orders and invoices for payment.

Sincerely,



Ronald G. Wengerd
Chief Hearing Officer

RGW:DF

c: L. DuBois
G. Olivera
P. MacMeekin
G. Terwilliger
M. Aanonsen
D. Rodriguez