State of New Jersey
DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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September 25, 2015

Via Electronic [dean.colarusso@mtsint.com] and USPS Regular Mail

Dean Colarusso, Director of Sales
MTS IntegraTRAK, Inc.
70 Grand Avenue, Suite 104
River Edge, NJ 07661

Re: Reconsideration of Proposal Rejection
RFP# 16-X-23864: Telecommunications Expense System (TEMS) Hosted

Dear Mr. Colarusso:

This correspondence is in response to your letter dated September 14, 2015, to the Hearing Unit of the Division of Purchase and Property (Division) on behalf of MTS IntegraTRAK, Inc. (IntegraTRAK). In that letter, IntegraTRAK protests the Proposal Review Unit's Notice of Proposal Rejection for Solicitation# 16-X-23864: Telecommunications Expense System. The record of this procurement reveals that IntegraTRAK's proposal was rejected for failing to include an *Ownership Disclosure Form* and a *Disclosure of Investment Activities in Iran* Form. IntegraTRAK requests that the Division reconsider the rejection of its proposal.

I have reviewed the record of this procurement, including the Request for Proposal (RFP), IntegraTRAK's proposal, 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 submitted by IntegraTRAK. I set forth herein the Division's final agency decision.

By way of background, this RFP was issued by the Division's Procurement Bureau (Bureau) on behalf of the Office of Information Technology (OIT) to solicit proposals for a Telecommunications Expense Management System that will support OIT's wireline and wireless telecommunications billing responsibilities. (RFP § 1.1 *Purpose and Intent.*) In accordance with the RFP, contracts are to be awarded to "the responsible bidder whose proposal conforming to this RFP is most advantageous to the State, price and other factors considered." (Ibid.)

On August 28, 2015, proposals received by the submission deadline were opened by the Proposal Review Unit. After conducting the intake review, the Proposal Review Unit issued a Notice of Proposal Rejection to IntegraTRAK pursuant to N.J.A.C. 17:2-2.2 for failing to include an *Ownership Disclosure Form* and a *Disclosure of Investment Activities in Iran* Form with its proposal submission.

In response to the Notice of Proposal Rejection, IntegraTRAK states that it:

> …uploaded the MTS response to the State [of] New Jersey's RFP Solicitation# 16-X-23864 for Telecommunications Expense System (TEMS) with required attachments and RFP information into the State's eBid system.
>
> . . . .
>
> Attached to the email is the form MTS submitted electronically into the system, as well as the notification we received. I am requesting visibility to the MTS submitted RFP information in the State of NJ eBid system as submitted on August 28th.
>
> [IntegraTRAK's September 14, 2015, protest email.]

The above referenced solicitation was comprised of the RFP and other documents, one of which was the three-part document entitled *NJ Standard RFP Forms* which includes the *Ownership Disclosure Form* and the *Disclosure of Investment Activities in Iran* form. This form is addressed in RFP Section 4.0, *Proposal Preparation and Submission*, which provides in pertinent part:

> **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.**
>
> . . . .
>
> [*Emphasis in the original.*]

Moreover, pursuant to N.J.A.C. 17:12-2.2, a bidder's proposal must "contain all RFP-required certifications, forms, and attachments, completed and signed as required" or "be subject to automatic rejection." As a courtesy to all bidders, the Division provided a *Proposal Checklist* as an accompaniment to the RFP. The relevant portion of the checklist includes the following:

N.J. Department of the Treasury
Division of Purchase and Property
PROPOSAL CHECKLIST

Solicitation Number: 16-X-23864 **Solicitation Title:** TEMS Hosted

It is the bidder's responsibility to ensure that all requirements of the RFP have been met

FORMS THAT MUST BE SUBMITTED WITH YOUR PROPOSAL:

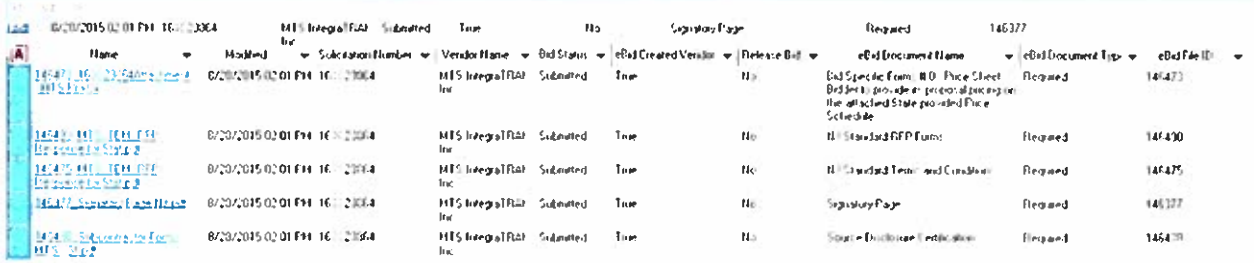
☑	RFP Signatory Page with physical signature or PIN (PIN is for eBid submission ONLY)
☑	Completed Price Sheets as instructed in Section 4.4.5 of the RFP
☑	Completed and signed Ownership Disclosure Form*
☑	Completed and signed Disclosure of Investments in Iran Form*
☑	**Subcontractor Utilization Form (only if Subcontractor is proposed)**

** The Ownership Disclosure, Disclosure of Investigations and Other Actions Involving Bidder, and the Disclosure of Investments in Iran forms MUST each contain either a physical or typed signature (typed signatures are only acceptable for eBid submissions). The forms are found in the Standard RFP Forms Packet, which can be downloaded at*
http://www.state.nj.us/treasury/purchase/forms/StandardRFPForms.pdf

As set forth in RFP Section 4.0, the submission of a completed and signed *Ownership Disclosure Form* prior to or as part of the proposal and a completed and signed *Disclosure of Investment Activities in Iran* Form as part of a bidder's proposal was required.

The record of this procurement indicates that IntegraTRAK submitted a proposal through the Division's eBid system by the proposal submission deadline. IntegraTRAK contends that it uploaded the required forms to the eBid system. However, a review of the eBid submission reveals that IntegraTRAK did not upload any of the *NJ Standard RFP Forms*. As part of the Hearing Unit's evaluation of this protest, a review of each documents uploaded to eBid by IntegraTRAK was made. That review confirmed that the *NJ Standard RFP Forms* were not uploaded. Rather, in the space provided for uploading the *NJ Standard RFP Forms*, IntegraTRAK uploaded its RFP response entitled "State of New Jersey TEM RFP – MTS Response: MTS TEM/EMM SUITE Telecommunications Lifecycle Management." In fact, this document was uploaded to the eBid system twice[1]:

Submitted eBids



The eBid system accepts any document a bidder uploads in a required document field; it cannot differentiate what documents are uploaded. The responsibility for the contents of the proposal or submittal necessarily and appropriately rests with the bidder.

Notwithstanding IntegraTRAK's interest in competing for this procurement, it would not be in the State's best interest to allow a bidder who did not appropriately complete and submit all of the required forms with its proposal as required by the RFP to be eligible to participate in the procurement process. Such acceptance would unlevel the bidder's playing field as the State received responsive proposals in which all necessary documents and information were provide as required. The deficiency at issue cannot be remedied after the proposal submission deadline as acceptance of IntegraTRAK's proposal under these circumstances would be contrary to the provisions of the governing statute and provide IntegraTRAK with disclamation options not available to those bidders whose proposals where fully responsive. In light of the finding set forth above, I must deny your request for eligibility to participate in the competition for the subject contract. This is the Division's final agency decision on this matter.

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[1] I note that in the protest letter, IntegraTRAK requested "visibility to the MTS submitted RFP information in the State of NJ eBid system as submitted on August 28th." After the submission of a proposal, a bidder may log into the eBid system and review submitted proposals under the "My Proposals" tab.

Thank you for your interest in doing business with the State of New Jersey. I further 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.

Sincerely,

Maurice A. Griffin
Acting Chief Hearing Officer

MAG: RUD

c: J. Strype
G. Olivera
A. Nelson
D. Rodriguez