



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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September 24, 2015

Via Electronic Mail [rjc@phmc.org] and USPS Regular Mail

Richard J. Cohen, Ph.D.
Chief Executive Officer
Public Health Management Corp.
Centre Square East
1500 Market Street
Philadelphia, PA 19102

Re: Reconsideration of Proposal Rejection
RFP# 16-X-23964: Fiscal Intermediary and Financial Cash and Counseling Services: DIIS

Dear Mr. Cohen:

This correspondence is in response to your letter dated September 18, 2015, to the Hearing Unit of the Division of Purchase and Property (Division) on behalf of Public Health Management Corp. (PHMC). In that letter, PHMC protests the Proposal Review Unit's Notice of Proposal Rejection for Solicitation# 16-X-23964: Fiscal Intermediary and Financial Cash and Counseling Services: DIIS. The record of this procurement reveals that PHMC's proposal was rejected for failing to include an *Ownership Disclosure Form*. In the protest letter, PHMC states that as non-profit entity it was not required to complete and submit an *Ownership Disclosure Form* with its proposal. PHMC requests that the Division reconsider the rejection of its proposal.

I have reviewed the record of this procurement, including the Request for Proposal (RFP), PHMC'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 PHMC.

By way of background, this RFP was issued by the Division's Procurement Bureau (Bureau) on behalf of the Department of Human Services (DHS) to solicit proposals for a contractor to provide statewide fiscal management services, administrative services, and financial counseling for individuals enrolled in DHS programs. (RFP § 1.1 *Purpose and Intent*.) In accordance with the RFP, a contract is to be awarded to a qualified bidder who demonstrates in its proposal that it has the knowledge, experience, resources, and infrastructure necessary to effectively to perform the contract requirements.

On September 17, 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 PHMC pursuant to N.J.A.C. 17:2-2.2 for failing to include an *Ownership Disclosure Form* with its proposal submission.

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

This rejection was made in error, as PIIMC, a non-profit entity, was not required to submit an Ownership Disclosure Form, and according to the Notice of Proposal Rejection the failure to submit this Form was the sole cause for rejection.

[PIIMC's September 18, 2015, protest letter.]

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*. 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." However, the *Ownership Disclosure Form* included with this and other solicitations states the following:

PLEASE NOTE: IF THE BIDDER/OFFEROR IS A NON-PROFIT, THIS FORM IS NOT REQUIRED. PLEASE COMPLETE THE SEPARATE DISCLOSURE OF INVESTIGATIONS FORM.

Based upon the language of the form, PIIMC states that it did not submit the *Ownership Disclosure Form* because it is a non-profit entity. In support of its non-profit status, with its protest letter, PIIMC submitted a letter from the Department of the Treasury - Internal Revenue Service dated September 19, 2014. That letter demonstrates that PIIMC is a recognized as a tax exempt non-profit entity under Section 501(c)(3) of the Internal Revenue Code. Because PIIMC is a non-profit entity it was not required to complete and submit an *Ownership Disclosure Form* with its proposal. Therefore, I find that PIIMC's should not have been rejected. I further note that the record of this procurement reveals that PIIMC did submit the *Disclosure of Investigations Form* as directed.

Accordingly, I overturn the decision of the Proposal Review Unit to reject PIIMC's proposal for the above-referenced RFP. I hereby direct the Bureau to proceed accordingly with evaluation of the proposals, inclusive of PIIMC's, received for this procurement. This is the Division's final agency decision on this matter.

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: M. Boragine
P. Michaels
A. Nelson
D. Rodriguez