



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR

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August 14, 2018

Via Electronic Mail [cspaise@artretail.net] and USPS Regular Mail

John Murn, President
RSA Management Group, Inc.
P.O. Box 697
Greenlawn, NY 11740

Re: I/M/O Bid Solicitation #18DPP00204 RSA Management Group, Inc.
T0644 Vending Machine Product Sales and Related Services - CBVI
Protest of Notice of Intent to Award

Dear Mr. Murn:

This letter is in response to your correspondences on behalf of RSA Management Group, Inc. (RSA), received by the Division of Purchase and Property's (Division) Hearing Unit on August 7, 2018 and August 9, 2018. In those letters, RSA protests the July 27, 2018, Notice of Intent to Award (NOI) issued by the Division's Procurement Bureau (Bureau) indicating an intent to award a Master Blanket Purchase Order (Blanket P.O.)¹ to Universal Vending Machine, LLC (Universal) for Bid Solicitation #18DPP00204 - T0644 Vending Machine Product Sales and Related Services – CBVI (Bid Solicitation).

By way of background, on March 29, 2018, the Bureau issued the Bid Solicitation on behalf of the Department of Human Services (DHS) - Commission for the Blind and Visually Impaired (CBVI), to solicit Quotes for Vending Machine Product Sales and Related Services from qualified Vendors {Bidders}. Bid Solicitation § 1.1 *Purpose and Intent*. It is the State's intent to award a Blanket P.O. to that responsible

¹ 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.

| NJSTART Term | Statutory, Regulatory and/or Legacy Term |
|-------------------------------|---|
| 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 |

Vendor {Bidder} whose Quote, conforming to this Bid Solicitation is most advantageous to the State, price and other factors considered. Ibid.

On May 7, 2018 and May 18, 2018, the Bureau issued Bid Amendment #1 and Bid Amendment #2 respectively. Both Bid Amendments responded to the questions posed by potential Vendors {Bidders}. On June 5, 2018, the Division's Proposal Review Unit opened three Quotes received by the submission deadline of 2:00 pm eastern time.²

The three Quotes were forwarded to the Bureau for review and evaluation consistent with the requirements of Bid Solicitation Section 6.7 *Evaluation of Quotes {Proposals}*. In conducting the evaluation of the technical Quotes received, the Bureau determined that the Quotes submitted by both RSA and Universal were responsive to the mandatory requirements of the Solicitation.³ Both Vendors {Bidders} submitted "well-organized Quote[s] that met all mandatory requirements and successfully addressed the tasks and deliverables specified by the Bid Solicitation." Recommendation Report p. 4. Both RSA and Universal received technical Quote evaluation scores of two (2) – in the "good" range. Recommendation Report pgs. 3 - 4. The Bureau was confident that either Vendor {Bidder} could successfully complete the scope of work identified in the Bid Solicitation. Ibid.

With respect to the evaluation of the Vendors' {Bidders'} Quote pricing, Bid Solicitation Section 6.7.1 *Vendor's {Bidder's} Price Schedule* advised potential Vendors {Bidders} that "[f]or evaluation purposes, Vendors {Bidders} will be ranked from highest to lowest according to the Average Annual Commission Rebate Percentage of Net Sales located on the Price Sheet/Schedule accompanying this Bid Solicitation {RFP}." In its Quote submission, Universal submitted an Average Annual Commission Rebate Percentage of Net Sales of 33.6%; RMS submitted an Average Annual Commission Rebate Percentage of Net Sales of 25%. The Bureau requested Best and Final Offers from both Universal and RSA; however, both Vendors {Bidders} declined to offer an improved rebate.

On July 19, 2018, the Bureau issued a Recommendation Report which recommended a Blanket P.O. be awarded to Universal based upon its submission of a Quote that was most advantageous to the State, price and other factors considered.

On August 7, 2018 and August 9, 2018, RSA submitted letters of protest to the Division's Hearing Unit. In the August 7, 2018, letter, RSA requested a copy of the Bid Solicitation Award file and additionally stated:⁴

We feel that our Bid will generate more net dollars to the State of New Jersey and create new opportunities for blind vendors. The level of service and accountability from RSA Management Group and our vendors, is a genuine commitment to thoroughness in work completion at a high standard of legibility, cleanliness and orderliness.

On August 9, 2018, RSA submitted a supplemental protest letter to the Division's Hearing Unit. In that letter RSA requested a hearing and further stated:

² Quotes were received from RSA, Universal, and Culinary Ventures Vending d/b/a Paramount Vending Services Corp. (Culinary).

³ The Bureau concluded that the Quote submitted by Culinary was non-responsive to the requirements of the Bid Solicitation.

⁴ On August 7, 2018, the Bureau provided RSA with a copy of the Award file.

Our Bid will generate more net dollars to the State of New Jersey by offering new equipment and new card readers, which offers accountability across the board. The new credit card equipment provides the benefit of real-time alerts and daily reports, which means that any operational issues are reported as they occur. In turn this means, higher sales per machine and minimal-to-no down time, which improves operational efficiency, greater business transparency and higher customer satisfaction.

With new equipment and credit card readers, we will be monitoring the sales and offering only items that sell, which will also increase the revenue to the State of New Jersey. For these reasons, we are feel RSA Management Group will return the highest revenue back to the State of New Jersey.

With respect to RSA's request for an in person hearing regarding the issues raised in its protest, pursuant to N.J.A.C. 17:12-3.3(d)(1), "[t]he Director has sole discretion to determine if an in-person presentation by the protester is necessary to reach an informed decision on the matter(s) of the protest. In-person presentations are fact-finding for the benefit of the Director." Further, "[i]n cases where no in-person presentation is held, such review of the written record shall, in and of itself, constitute an informal hearing." N.J.A.C. 17:12-3.3(d). In consideration of RSA's protest, I have reviewed the record of this procurement, including the Bid Solicitation, the submitted Quotes, the relevant statutes, regulations, and case law. The issue(s) raised in RSA's protests were sufficiently clear such that a review of the record of this procurement 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 RSA on the written record. I set forth herein the Division's Final Agency Decision.

In its supplemental protest, RSA states that it will offer the State new equipment with credit card readers. However, Bid Solicitation Section 3.2 *General Requirements* requires that the Vendor {Contractor} provide vending machines that accept credit cards.

F. All vending machines provided by the Vendor {Contractor} must meet the following requirements:

...

2. When placing a machine(s) in prison visiting areas and facilities, vending machines shall be equipped to accept tokens, credit/debit cards, and/or other non-cash forms (Vendor {Contractor}-specific electronic cards) of payment for goods received, unless otherwise specified by the prison...

[Bid Solicitation § 3.2 *General Requirements* (F)(2).]

Further, RSA's statement that its equipment will provide real-time alerts, daily reports and the ability to monitor sales was included in its Quote and was considered by the Bureau in its evaluation. However, as stated in the Bureau's recommendation report, both Universal and RSA submitted Quotes which assured the Bureau that either could successfully provide the services specified in the Bid Solicitation. Consequently, both Quotes received technical score of 2.

Here, the award came down to price (in the form of rebates). Universal's Average Annual Commission Rebate Percentage of Net Sales was significantly higher than that proposed by RSA and as such, the Bureau recommended an award to Universal.

Based upon the foregoing, I find no reason to disturb the Bureau's recommendation. Accordingly, I sustain the July 27, 2018 NOI. This is my final agency decision with respect to the protest submitted by RSA.

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, the State of New Jersey's eProcurement system.

Sincerely,



Maurice A. Griffin
Acting Director

MAG: RUD

c: A. Davis
K. Anderson-Thomas
R. Regan