



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR  
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January 10, 2014

Via Electronic Mail [rferris@veramark.com] and USPS Regular Mail

Mr. Richard J.T. Ferris  
Veramark Technologies, Inc.  
1565 Jefferson Road, Suite 120  
Rochester, NY 14623

RE: Protest of Notice of Proposal Rejection  
RFP #14-X-22872 Telecommunications Expense management System (TEMS)

Dear Mr. Ferris:

This letter is in response to your email<sup>1</sup> received January 7, 2014, referencing the subject Request for Proposal (“RFP”) and regarding the proposal submitted by Veramark Technologies, Inc. (“Veramark”) to the Division of Purchase and Property (“the Division”). The record of this procurement notes that Veramark’s proposal was rejected for absence of a signed *Ownership Disclosure Form*. In your email, you contend that Veramark provided all necessary forms and request that I reconsider the rejection of Veramark’s proposal.

I have reviewed the record of this procurement, including the RFP, Veramark’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 Veramark’s protest.

The above-referenced solicitation was comprised of the RFP and other documents, one of which was the three-part document titled *NJ Standard RFP Forms*. This document is comprised of three expandable forms, including an *Ownership Disclosure Form*, a *Disclosure of Investigations and Other Actions Involving Bidder Form*, and a *Disclosure of Investment Activities in Iran* form. Following question 1 on the *Ownership Disclosure Form*, the forms states: “If the answer to question 1 is no, please sign and date the form. You do not have to complete any more

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<sup>1</sup> Your email communication is accepted as a letter of protest.

questions on this form. If the answer to question 1 is yes, please answer questions 2-4 below.” Page 2 of the *Ownership Disclosure Form* includes the certification with signatory line.

These forms are addressed in RFP Section 4.0, *Proposal Preparation and Submission*. The relevant text reads as follows:

#### **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.** If the bidder submits a hard copy proposal, each of the two forms must be physically signed.

If the bidder is submitting an electronic proposal through the Division's eBid system, there are only two acceptable forms of signature for the two forms:

1. The bidder may download the document, physically complete and sign each form, scan the completed document and then upload it, or
2. The bidder may download the document, type the name of the signatory in the space designated for certification signature in each of the forms and then upload the document.

**Note: A bidder's entry of a Personal Identification Number (PIN) will not suffice as a signature on these two forms. A signed RFP Signatory Page is also not an acceptable substitute for signature on these two forms.**

#### **4.4.1.2.1 Ownership Disclosure Form**

Pursuant to N.J.S.A. 52:25-24.2, in the event the bidder is a corporation, partnership or sole proprietorship, the bidder must complete and sign the attached Ownership Disclosure Form. A current completed Ownership Disclosure Form must be received prior to or accompany the submitted proposal. A bidder's failure to submit the completed and signed form with its proposal will result in the rejection of the proposal as non-responsive and preclude the award of a contract to said bidder unless the Division has on file a signed and accurate Ownership Disclosure Form dated and received no more than six months prior to the proposal submission deadline for this procurement. If any ownership change has occurred within the last six months, a new Ownership Disclosure Form must be completed, signed and submitted with the proposal.

[(Emphasis in original.)]

Pursuant to N.J.A.C. 17:12-2.2, a bidder's proposal must “[c]ontain all RFP-required certifications, forms, and attachments, completed and signed as required” or “be subject to automatic rejection.” As set forth in RFP 4.4.1.2. and 4.4.1.2.1 above, the submission of a completed and signed *Ownership Disclosure Form* as part of a bidder's proposal was required prior to or at the time of the submission.

In this case, the record indicates that Veramark's proposal submission did not include a signed *Ownership Disclosure Form*,<sup>2</sup> nor was there an acceptable *Ownership Disclosure Form* on file with the Division. Notwithstanding Veramark's interest in competing for this procurement, it would not be in the State's best interests to allow a bidder who did not provide all required certifications to be eligible to participate in the procurement process. Such acceptance would unlevel the bidders' playing field, as the State received other responsive proposals in which certifications were provided as required. The deficiency at issue cannot be remedied after the proposal submission deadline, as acceptance of Veramark's proposal under these circumstances would be contrary to the provisions of the governing statute and would provide Veramark with disclamation options not available to those bidders whose proposals were fully responsive. In light of the findings set forth above, I must deny your request for eligibility to participate in the competition for the subject contract. This is my final agency decision on this matter.

This is an unfortunate situation for the State, as we encourage competition and appreciate your expertise in the field. I look forward to your company's continuing interest in doing business with the State of New Jersey.

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. Wengerd', with a long horizontal flourish extending to the right.

Ronald G. Wengerd  
Chief Hearing Officer

RGW:DF

c: L. DuBois  
K. Moore  
P. MacMeekin  
J. Strype  
D. Rodriguez

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<sup>2</sup> I do note that the *Disclosure of Investment Activities in Iran* form was properly signed on page 5. However, that signature cannot serve as signatory for the separate *Ownership Disclosure Form* certification.