



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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July 26, 2018

Via Email [scott.porter@milliman.com] and USPS Regular Mail

Scott F Porter, FSA
Principal and Consulting Actuary
Milliman
1550 Liberty Ridge Drive, Suite 200
Wayne, PA 19087-5572

Re: I/M/O Bid Solicitation 17DPP00136 Milliman
Protest of Notice of Intent to Award
T2672 Actuarial Services: Contracted Actuarial Consulting Firms

Dear Mr. Porter:

This letter is in response to your correspondence dated July 15, 2018, on behalf of Milliman, which was received by the Division of Purchase and Property's (Division) Hearing Unit on July 16, 2018. In that letter, Milliman protests the June 29, 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 Cheiron, Inc. (Cheiron) for Bid Solicitation #17DPP00136: T2672 Actuarial Services Contracted Actuarial Consulting Firms (Bid Solicitation).

By way of background, the Division of Pensions and Benefits (DPB) is responsible for all of the administrative functions, other than investment, of the various State pension systems. Specifically, DPB is responsible for the following pension systems:

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

- Police and Firemen's Retirement System (PFRS);
- State Police Retirement System (SPRS);
- Judicial Retirement System (JRS);
- Consolidated Police and Firemen's Retirement Fund (CPFPPF);
- Prison Officers' Pension Fund (POPF); and
- Supplemental Annuity Collective Trust (SACT).

The subject Bid Solicitation was issued on May 4, 2017, by the Division's Procurement Bureau (Bureau) on behalf of the DPB. Bid Solicitation Section 1.1 *Purpose and Intent*. The purpose of the Bid Solicitation was to solicit Quotes from qualified Vendors {Bidders} to perform actuarial consulting services and to prepare actuarial reports over a five (5) year period for DPB. *Ibid.* The intent of the Bid Solicitation is to award up to three (3) Master Blanket Purchase Orders (Blanket P.O.s) to those responsible Vendors {Bidders} whose Quotes, conforming to this Bid Solicitation are most advantageous to the State, price and other factors considered. The State may award any and all price lines. *Ibid.*

In accordance with Bid Solicitation Section 1.3.1 *Electronic Question and Answer Period*, potential Vendors {Bidders} were permitted to submit questions regarding the Bid Solicitation through May 18, 2017. The Bureau answered the questions posed through the posting of Bid Amendments #1, #3 and #5 on June 20, 2017, July 13, 2017 and August 2, 2017 respectively. There were no questions posed regarding Bid Solicitation Sections 1.1 *Purpose and Intent* or 1.2 *Background* or the number of Blanket P.O.s to be awarded.

On September 12, 2017 five (5) Quotes received by the submission deadline were opened by the Division's Proposal Review Unit and reviewed for responsiveness to the Division's administrative requirements.² All Quotes were forwarded to the Bureau. The Bureau provided the Quotes to the Evaluation Committee (Committee) for review and evaluation consistent with the criteria set forth in the Bid Solicitation Section 6.7.1 *Technical Evaluation Criteria* which stated:

Each criterion will be scored and each score multiplied by a predetermined weight to develop the Technical Evaluation Score.

- A. Personnel: The qualifications and experience of the Vendor's {Bidder's} management, supervisory, and key personnel assigned to the Blanket P.O. {Contract}, including the candidates recommended for each of the positions/roles required;
- B. Experience of firm: The Vendor's {Bidder's} documented experience in successfully completing Blanket P.O.s {Contracts} of a similar size and scope in relation to the work required by this Bid Solicitation {RFP}; and
- C. Ability of firm to complete the Scope of Work based on its Technical Quote {Proposal}: The Vendor's {Bidder's} demonstration in the Quote {Proposal} that the Vendor {Bidder} understands the requirements of the Scope of Work and presents an approach that

² Quotes were submitted by Bolton Partners, Inc. (BPI), Cheiron, Inc. (Cheiron), Conduent HR Consulting, LLC, (Conduent), Gabriel, Roeder, Smith & Company, (GRS) and Milliman, Inc. (Milliman).

would permit successful performance of the technical requirements of the Blanket P.O. {Contract}.

On November 27, 2017 and December 8, 2017, the Committee, comprised of eight (8) voting members met to review the Quotes received.³ Thereafter, on June 7, 2018, the Committee issued its Evaluation Committee Report (Committee Report) with its findings. The Committee concluded that all Quotes submitted were technically competitive as all Quotes met or exceeded the expectations of the Bid Solicitation. Committee Report, p. 19.

Based upon the Committee's evaluation and scoring of each Quote, it is clear that Milliman, Cheiron, Conduent, GRS and BPI submitted competitive Quotes that successfully conveyed the ability of each respective firm to complete the Scope of Work as required by the Bid Solicitation. While the Committee concluded that all the Vendor {Bidders} submitted, at the very least, adequate technical proposals, the Committee determined some Vendors {Bidders} could have provided more depth and detail in the responses. Milliman and Cheiron separated themselves from the other Vendors {Bidders} by the scores in Criterion 2 and Criterion 3 collectively. The cumulative difference in Total Technical Score of 172 points, based on a Vendor {Bidder} possible total score of 8,000 between the top two (2) firms equates to [a] minor 2.15% difference.

[Committee Report, p. 19.]

Based upon its review and evaluation, the Committee recommended an award to Cheiron noting:

Cheiron has the experienced staff necessary to perform the work required, and is ready with a seamless transition plan. Cheiron also provided the lowest price for all three projects with a combined saving of 18.2%. With those factors in mind the Committee is recommending that the Public Employees Retirement System (PERS), Teachers Pension & Annuity Fund (TPAF) and Certain Public Retirement Systems (CPRS) projects all be awarded to Cheiron.

[Committee Report, pgs. 19 – 20.]

Consistent with the Committee Report, on June 14, 2018, the Bureau issued a Recommendation Report which likewise recommended that the Director award the contract to Cheiron. On June 29, 2018, the NOI was issued which advised all Vendors {Bidders} that it was the State's intent to award a Blanket P.O. to Cheiron.

On July 16, 2018, the Division received Milliman's protest challenging the intended Blanket P.O. award. Specifically, Milliman states:

Section 1.2 of the RFP noted "the State does not intend to award all three (3) projects to a single Vendor {Bidder}". Furthermore, this intention was

³ The eight member committee was comprised of two individuals from the Division of Pensions and Benefits; one individual from each of the following: Office of Management & Budget, Division of Investment, PERS Board Trustee, TPAF Board Trustee, PFRS Board Trustee, and the Division.

reiterated in the Evaluation Committee Report in Section II.C. by stating “The intent of this Bid Solicitation was to award multiple Blanket P.O.s.”

As actuary for the Teachers’ Pension and Annuity Fund over the past 22 years, we have worked with the Division of Pension and Benefits and Conduent (formerly Buck Consultants) in a multiple vendor situation, with the knowledge that this arrangement was preferred by the Division. Based on this long term relationship and the intention stated in the RFP, our proposal and fees reflected this intention. If we believed the State was considering selecting a single vendor, our proposal, and especially our fees, would have been modified.

In consideration of Milliman’s protest, I have reviewed the record of this procurement, including the Bid Solicitation, the submitted Quotes, 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. I set forth herein the Division’s Final Agency Decision.

This Bid Solicitation was a reprocurement of the State’s actuarial services contract T-2672 and advised potential Vendors {Bidders} that those companies interested in the specifications and pricing information of the current awarded Blanket P.O.s under the prior Bid Solicitation #09-X-20779, could review the awarded Blanket P.O.s on the State’s website. Bid Solicitation Section 1.2 *Background*. Importantly, the subject Bid Solicitation cautioned Vendors {Bidders} that the subject Bid Solicitation was new and addressed the State’s current requirements. Ibid.

For example, with respect to the award of Blanket P.O.s, Bid Solicitation #09-X-20779 advised the bidding community that it was “the intent of [Bid Solicitation #09-X-20779] to award a total of six (6) [Blanket P.O.s] to perform actuarial services.” Bid Solicitation #09-X-20779 § 1.1 *Purpose and Intent*. Further, Bid Solicitation #09-X-20779 advised the bidding community that “while the bidder may submit [Quotes] for all three (3) projects, they may receive an award for no more than two (2). The Quotes submitted will also be evaluated to select the six (6) prequalified contractors for additional projects that may arise under this consolidated [Blanket P.O.]” Bid Solicitation #09-X-20779 §§ 4.4 *Bid Proposal Content* and 4.4.6 *Price Schedule*.

Conversely, the subject Bid Solicitation did not state a certain number of Blanket P.O.s would be awarded. While the Bid Solicitation did indicate that “the State does not intend to award all three (3) projects to a single Vendor {Bidder},” it went on to say that that it is the State’s intent “to award up to three (3) Master Blanket Purchase Orders (Blanket P.O.s) {Contracts} to those responsible Vendors {Bidders} whose Quotes {Proposals}, conforming to this Bid Solicitation {RFP} are most advantageous to the State, price and other factors considered.” Bid Solicitation §§ 1.1 *Purpose and Intent*, 1.2 *Background* and 7.2 *Final Blanket P.O. {Contract} Award*, emphasis added. Taken together, these statements advise potential Vendors {Bidders} that the award of Blanket P.O.s would be made to the responsive and responsible Vendor(s) {Bidder(s)} whose Quote(s) are in the State’s best interest, price and other factors considered, and while the State did not plan to award to all three project to one Vendor {Bidder}, the State could award 1, 2 or 3 Blanket P.O.s. The language of the subject Bid Solicitation is markedly different than that of the prior Bid Solicitation #09-X-20779 which affirmatively stated the exact number of Blanket P.O.s that would be awarded as a result of the procurement.

Further, the Division’s governing statutes and regulations instruct that in general, a procurement should be structured to award a contract to single bidder. N.J.S.A. 52:34-12, N.J.A.C. 17:12-1A.1. The

Division may make multiple awards to furnish the same or similar materials, supplies, services or equipment if multiple awards are necessary:

- (1) to furnish the quantities required by using agencies;
- (2) to provide expeditious and cost-efficient local deliveries to using agencies;
- (3) to enable using agencies to purchase materials, supplies, services or equipment which are compatible with those previously purchased;
- (4) to provide for standardization of equipment, interchangeability of parts or continuation of services;
- (5) to provide using agencies or participants in cooperative purchasing arrangements with a diversity of product choices to meet the collective safety, environmental or technological needs of such agencies or cooperative purchasers; or
- (6) when the director determines that multiple awards are necessary to serve the State's interests.

[N.J.S.A. 52:34-12.1]

Here, there are no circumstances which would necessitate the Division awarding of multiple Blanket P.O.s. In reviewing the Quotes submitted, the Committee, comprised of representatives from the using agency and the various pension system boards found that all of the Quotes were responsive to and exceeded the requirements of the Bid Solicitation. In particular with respect to the Quotes submitted by Milliman and Cheiron the Committee noted that they "separated themselves from the other Vendors {Bidders} by the scores in Criterion 2 and Criterion 3 collectively. The cumulative difference in Total Technical Score of 172 points, based on a Vendor {Bidder} possible total score of 8,000 between the top two (2) firms equates to [a] minor 2.15% difference." Committee Report, p. 19. With respect to the Quote submitted by Cheiron, the Committee went on to note that "Cheiron has the experienced staff necessary to perform the work required, and is ready with a seamless transition plan." Ibid.

With respect to Quote pricing, the Committee Report reveals that Cheiron proposed the lowest Quote price for each category of work described in Bid Solicitation Section 3 *Scope of Work*, and identified on the Bid Solicitation price sheet. In fact, Cheiron "provided the lowest price for all three projects with a combined saving of 18.2%." Committee Report, pgs. 19 – 20. When submitting Quote pricing, all Vendors {Bidders} should endeavor to provide the State with its best possible pricing with the submitted Quote. Here, as permitted by the Division's governing regulations and in accordance with Bid Solicitation Section 6.8 *Negotiation and Best and Final Offer (BAFO)*, the Bureau requested that all Vendors {Bidders} submit BAFO responses with reduced pricing. Only Cheiron and Conduent submitted reduced pricing for all three categories; Milliman submitted reduced pricing for two of the three categories; and BPI and GRS did not reduce their original Quote pricing. The Hearing Unit's review of Cheiron's original Quote pricing compared to the BAFO or original Quote pricing submitted by the other Vendors {Bidders} as applicable, reveals that even if Cheiron had not submitted reduced pricing in response to the Bureau's BAFO request, its Quote provided the State with the lowest pricing in each of the three categories.

Based upon the Hearing Unit's review of the record of this procurement, I have no reason to dispute the Bureau's recommendation that the PERS, TPAF and CPRS projects all be awarded to Cheiron, as the award of a single Blanket P.O. would be sufficient to meet the State's needs and was most advantageous to the State, price and other factors considered.

Accordingly, I sustain the June 29, 2018 NOI. This is my final agency decision with respect to the protest submitted by Milliman.

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: P. Michaels
L. Spildener
R. Pavia