



October 29, 2019

Joy Merriner
Assurance Office Managing Partner
3601 C Street, Suite 600
Anchorage, AK 99503

Dear Ms. Merriner,

I am writing in response to BDO USA, LLP's (hereinafter "BDO") protest regarding the state's notice of intent to award resulting from Request for Proposals (RFP) 2020-0200-4381. Your protest was received on October 25, 2019. The Division of Shared Services of Alaska (SSoA), who conducted this procurement on behalf of the Department of Administration (DOA), has carefully reviewed your protest letter and examined the RFP file along with applicable statutes and regulations. SSoA finds that we must deny the protest for the reasons stated below.

The issues raised in the protest letter were broken down into three parts/grounds and will be discussed individually below in the same format and order listed in the protest letter.

Ground1: BDO was found non-responsive because it did not specifically note Legal Services as outlined in Sec. 1.04 of the RFP for meeting the minimum prior experience requirements.

Response: Section 1.04 of the RFP lists all prior experience required to qualify as meeting the minimum prior experience requirements. This section states that all Offerors must be a member of the National Governor's Association Partners (NGA Partners), **or** a firm that offers all the following services in-house (without sub-contracting): professional services, audit, **legal services**.

BDO failed to identify in their proposal that they were active members of NGA. BDO listed all other required services in their proposal but failed to list Legal Services. The state was forced to believe that BDO did not meet either requirement. The failure of BDO to confirm ability to provide all services required caused their proposal to be found non-responsive and rejected per the definitive instructions listed in Section 1.04 of the RFP.

The above-mentioned Section 1.04 in RFP stated:

“Offerors must have experience in strategy, planning, and implementation of large-scale government shared services or Information Technology consolidations. All Offerors must be a member of the National Governor’s Association Partners (NGA Partners), or a firm that offers all the following services in-house (without sub-contracting): professional services, audit, assurance services, taxation, management consulting, advisory, actuarial, corporate finance and legal services. Offerors must have been in business as a company in good standing for at least 25 years. An offeror’s failure to meet these minimum prior experience requirements will cause their proposal to be considered non-responsive and their proposal will be rejected.”

Conclusion: The state properly determined that BDO’s proposal was non-responsive, and that determination is upheld.

Ground 2: BDO states that it is eligible to join the national Governor’s Association (NGA) Partners and have verified their eligibility to obtain membership directly with NGA. They feel this should be an area of preference for the State of Alaska or an area that would impact the scoring for their qualifications.

Response: NGA membership is one of two options offered to meet the requirements in Section 1.04 Prior Experience. NGA membership was not the reason BDO was found non-responsive, it was the failure to identify the ability to provide Legal Services as a part of their in-house services. Neither the mandatory in-house service nor the Membership to NGA option was listed within BDO’s proposal. The state was forced to believe BDO did not possess either.

The above-mentioned Section 1.04 in RFP stated:

“Offerors must have experience in strategy, planning, and implementation of large-scale government shared services or Information Technology consolidations. All Offerors must be a member of the National Governor’s Association Partners (NGA Partners), or a firm that offers all the following services in-house (without sub-contracting): professional services, audit, assurance services, taxation, management consulting, advisory, actuarial, corporate finance and legal services. Offerors must have been in business as a company in good standing for at least 25 years. An offeror’s failure to meet these minimum prior experience requirements will cause their proposal to be considered non-responsive and their proposal will be rejected.”

Conclusion: The failure of BDO USA to confirm they met the minimum prior experience caused their proposal to be deemed non-responsive and be rejected per the definitive instructions listed in

Section 1.04 of the RFP. The state properly determined that BDO USA, LLC's proposal was non-responsive, and that determination is upheld.

Ground 3: BDO states that in Section 5.01 that the Proposal Evaluation Committee will have a meeting, chaired by the contracting officer, a group discussion therein. However, BDO felt if this meeting took place, their proposal would have been considered, as it was considered non-responsive prior to that committee's involvement.

Response: Section 5.01(1) - Summary of the Evaluation Process, is an eight-step process. Step 1 states that "Proposals will be assessed for overall responsiveness. Proposals deemed non-responsive will be eliminated from further consideration." BDO's proposal was assessed for responsiveness by the Contracting Officer and found to be non-responsive based on the Offerors failure to meet all minimum requirements, and BDO was then eliminated from further consideration and therefore, not reviewed by the Evaluation Committee.

Section 5.02 - Evaluation Criteria, clearly states that responsiveness is based on a "Pass/Fail grade." The proposal submitted by BDO failed the responsiveness test and therefore was not sent to the committee and was not evaluated. There is no evaluation of a proposal that "Failed" responsiveness. There is no PEC review, and no discussion or scoring of a "Failed" proposal.

The above-mentioned "Section 5.01- Summary of Evaluation Process" in the RFP stated:

The state will use the following steps to evaluate and prioritize proposals:

- 1) *Proposals will be assessed for overall responsiveness. Proposals deemed non-responsive will be eliminated from further consideration.*

The above-mentioned "Section 5.02- Summary of Evaluation Process" in the RFP stated:

Proposals will be evaluated based on their overall value to state, considering both cost and non-cost factors as described below.

Overall Criteria	Weight
Responsiveness	Pass/Fail

Conclusion: The proposal was not forwarded for evaluation by the committee because it was deemed non-responsive and eliminated from further consideration by the Contracting Officer. The state properly determined that BDO's proposal was non-responsive, and that decision is upheld.

Final Conclusion: As detailed in this protest response, SSoA finds;

- 1) BDO's proposal was non-responsive;
- 2) BDO failed to identify NGA membership or in-house legal services; and
- 3) BDO's proposal failed the responsiveness test and therefore was not evaluated by the committee.

Therefore, BDO's protest is denied.

We hope our decision in this matter does not dissuade you from competing for state contracts in the future.

If you wish to appeal this decision, your appeal must be filed with the Commissioner of Administration within ten calendar days of the date of this letter and must be in accordance with AS 36.30.590.

Sincerely,



Shavonne Jordan
Contracting Officer
Department of Administration
Division of Shared Services
Statewide Contracting

Cc: **Matthew Pegues**, Signature for Contracting Manager, Department of Administration, Shared Services of Alaska, Statewide Contracting

Dave Donley, State of Alaska, Deputy Commissioner for the Department of Administration