



## State of New Jersey

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March 1, 2017

Via Electronic [[rachel.bickar@cecintl.com](mailto:rachel.bickar@cecintl.com)] and USPS Regular Mail

Rachel M. Bickar, Vice-President  
Business Development & Marketing  
Community Education Centers, Inc.  
11767 Katy Freeway, Suite 520  
Houston, TX 77079

Re: Protest of Notice of Intent to Award  
Bid Solicitation {Request for Proposal}: 17DPP00056: Substance Abuse Service, DOC

Dear Ms. Bickar:

This letter is in response to your correspondence on behalf of Community Education Centers, Inc. (CEC), received by the Hearing Unit of the Division of Purchase and Property (Division) on January 23, 2017. In that letter, CEC protests the Notice of Intent to Award (NOI) a Master Blanket Purchase Order (Blanket P.O.) {Contract} for Bid Solicitation {Request for Proposal} 17DPP00056: Substance Abuse Service, DOC.<sup>1</sup> CEC alleges that the Evaluation Committee, and therefore the Division, did not seriously consider its Quote {Proposal} stating that the Evaluation Committee erroneously concluded that (1) CEC did not have experience with licensed substance use disorder (SUD) programs; and, (2) that CEC failed to establish appropriate staffing levels for the services in its Quote. CEC states that if the evaluation been conducted accurately it would have been awarded the Blanket P.O.

I have reviewed the record of this procurement, including CEC's protest and its Quote, the Bid Solicitation and related documents, 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 CEC's protest.

### BACKGROUND

By way of background, the Bid Solicitation (Solicitation or RFP) was issued by the Division's Procurement Bureau (Bureau) on August 5, 2016 on behalf of the Department of Corrections (DOC), Office of Substance Abuse Programming and Addiction Services, Division of Operations to solicit Quotes for a Vendor {Contractor} (Contractor) "to provide in-prison Substance Use Disorder treatment services (SUD Program) for a broad array of substance-related and addictive disorders as per American Psychiatric Association - Diagnostic and Statistical Manual – Fifth Edition (DSM-5)." (Solicitation § 1.1 *Purpose and Intent*.) The Solicitation further provides that:

The primary focus is to provide treatment services for offenders with Substance Use Disorders (SUD) involving alcohol and/or drugs, with

<sup>1</sup> Terminology is listed by new **NJSTART** term; {existing term} appears in braces.

additional attention provided for gambling disorder within the SUD context. The services required by the RFP are threefold as follows:

1. The Vendor {Contractor} shall provide in-prison SUD Program services that meet all requirements of the Core Program Standards;
2. The Vendor {Contractor} shall provide a Psycho-Educational Initiative (PEI) to offenders who are not eligible for SUD Program placement and are in the General Population (GP) within all DOC facilities; and
3. The Vendor {Contractor} shall provide a PEI to offenders who are not eligible for SUD Program placement and are in the Restrictive Housing Units (RIIU) within all DOC facilities.

[Committee Report, p. 2, Solicitation § 1.1 *Purpose and Intent*.]

DOC is mission-mandated to act in the interest of public safety and at the same time provide its offender population with the necessary tools to successfully re-enter society. Recovery is a key component of reentry success for the addicted offender. Traditionally, the treatment and social service related re-entry strategies have been viewed as separate and successive components. However, post-release success for the addicted offender recognizes re-entry as a part of the ongoing treatment episode in support of long term recovery goals. To meet this mandate, DOC has made it a priority to provide treatment to its substance use disorder population. Therefore, a primary therapeutic goal and associated expectation of outcomes of implemented treatment strategies within DOC for the program participant is the ability of the treatment intervention to assess and advance the offender in his/her recovery process and ensure that the offender is prepared to take full advantage of re-entry programming.

In order to maximize resources and outcomes under the continuum approach, DOC has adopted the nationally recognized and research supported continuum of care strategy to address offender addiction for those who present the more serious treatment needs. The primary goal of this approach is to effectively identify, assess, and treat these offenders by way of the comprehensive continuum of care system including the in-prison SUD Program phase followed by community placement; first in an Assessment and Treatment Center; and then a SUD supported halfway house or licensed community based residential treatment facility. In order to maximize the effects of the treatment under the continuum approach, program participants are involved in the in-prison portion of the treatment continuum for a period of time consistent with clinical assessment of need for services.

The intent of this Solicitation is to award one Blanket P.O. to that responsible Vendor {Bidder} (Bidder) whose Quote, conforming to the requirements of this Solicitation, is most advantageous to the State, price and other factors considered. (*Ibid.*) This Solicitation is a re-procurement of similar services provided under the Substance Use Services term Blanket P.O. {Contract}, T1464, presently due to expire on September 30, 2017. In addition, this Solicitation sought in-prison SUD programming for two DOC facilities – services which are not currently provided. Solicitation § 3.0 *Scope of Work*.

On October 19, 2016, seven Quotes received by the submission deadline of 2:00 p.m. were opened by the Division's Proposal Review Unit. The Proposal Review Unit forwarded those Quotes to the Bureau for further review. One Bidder was deemed non-responsive for failing to provide a technical Quote. The remaining Quotes were forwarded to the Evaluation Committee (Committee) for review and consideration. The Committee was comprised of five (5) voting members which included representatives of DOC and the Division, and two non-voting members from DOC staff who served as technical advisors to the Committee.

The Committee was responsible for performing a technical review of the Quotes received using the criteria set forth in Solicitation § 6.0 *Quote {Proposal} Evaluation* which stated in pertinent part:

## 6.7 EVALUATION CRITERIA

The following evaluation criteria categories, not necessarily listed in order of significance, will be used to evaluate Quotes {Proposals} received in response to this Bid Solicitation {RFP}. The evaluation criteria categories may be used to develop more detailed evaluation criteria to be used in the evaluation process.

### 6.7.1 TECHNICAL EVALUATION CRITERIA

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. {Contracts} of a similar size and scope in relation to the work required by this Bid Solicitation {RFP}.
- 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 would permit successful performance of the technical requirements of the Blanket P.O. {Contract}.

Based upon the evaluation, on January 18, 2017,<sup>2</sup> the Bureau issued the NOI advising Bidders that it was the State's intent to award a Blanket P.O. to Gateway Foundations, Inc. (Gateway) to provide both an in-prison SUD program and a Psycho-Educational Initiative to offenders at two DOC facilities.<sup>3</sup> In recommending Gateway for the contract award the Committee noted:

Gateway also demonstrated successful experience in starting up a fully dedicated treatment program for the Illinois Department of Corrections, which included three (3) female and five (5) male correctional facilities. One (1) of the facilities included 950 beds and required licensure of the program through Illinois' Department of Human Services, Division of Alcoholism and Substance Abuse. This comparable experience will contribute to the success of DOC's similar SUD program.

[Committee Report, p. 10.]

On January 23, 2017, CEC submitted its protest to the Division alleging that the Committee reached unsupported erroneous conclusions, namely that "CEC does not have experience with licensed SUD

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<sup>2</sup> An initial NOI was issued electronically by the Division on January 5, 2017. However, one the bidders reported that it did not receive the initial NOI; therefore, on January 18, 2017, the NOI was resent to all bidders and the protest deadline was extended.

<sup>3</sup> The SUD Program will be offered at Edna Mahan Correctional Facility for Females and Mid State Correctional Facility for Males.

programs and that CEC failed to establish appropriate staffing levels for the services in its proposal.” (CEC Protest, p. 5-7.) Specifically, CEC states that it (1) does have extensive experience with licensed SUD programs which was specifically noted in its Quote; and, (2) established appropriate staffing levels in its Quote which fully meet the needs of the Department consistent with the specification and parameters set forth in the solicitation documents provided to potential Bidders. (CEC Protest, p. 7.) Each of CEC’s protest points are addressed below.

## DISCUSSION

### A. CEC’s Experience with Licensed In-Prison SUD Programs

CEC alleges that the Committee’s report contained the erroneous conclusion that “CEC does not have experience with licensed SUD programs.” (CEC Protest, p. 5.) In support of its position that the Committee’s conclusion was erroneous, CEC references six sections of its Quote that it suggests demonstrate its extensive experience with licensed SUD programs. Each of CEC’s examples is addressed below.

At the outset, I note that this Solicitation sought a Contractor to provide a licensed in-prison SUD program. The Solicitation did not require licensed in-prison SUD experience as a pre-requisite for bidding. However, Bidders who submitted Quotes that demonstrated either prior experience with or knowledge of providing licensed in-prison SUD programs would have that proposal information reflected in the Committee’s score.

#### **Example 1:**

First, CEC references the following statement contained within its Quote as demonstrative of its compliance with the Solicitation requirements:

- **CEC Proposal, Page 11:**  
**A CEC-operated Division of Addiction Services (DAS)-Certified Alcohol Dependency Certification Program.** Provided at two New Jersey locations (Tully House and Bo Robinson) approved by the NJ Division of Consumer Affairs and the Addictions Professionals Certification Board of New Jersey. **Further successes are shown in CEC’s experience with treatment licenses in Florida, Pennsylvania, Illinois and through maintenance of an impeccable American Correctional Association accreditation record.**

[CEC Protest, p. 8.]

The Hearing Unit’s review of CEC’s Quote reveals that the above referenced language was contained with CEC’s Quote summary regarding its capacity to meet the program requirements. With respect to the Tully House and Bo Robinson – elsewhere in its Quote CEC states that it is the current service provider at these locations noting that:

As described in detail in RFP § 3.2.2, **Treatment Duration – Continuum of Care**, CEC is experienced in managing institutional substance abuse program participant flow to ensure, when possible, that program completion coincides with eligible transfer status, to mitigate circumstances in which SUD program completers must return to general population prior to their assignment or release to a community corrections residential placement.

As described fully under RFP § 3.2.2, CEC will ensure that SUD program participants at EMCFW and MSCF are supplied with the tools and support to manage recovery in GP as a regular part of discharge planning. CEC will also supply the SCM a quarterly report of those SUD program participants, GP location, duration in location, and those pending admission into a Residential Community Release Program (RCRP).

[CEC Quote, p. 25.]

No other details regarding the programs offered at Tully House or Bo Robinson, specifically whether or not they are licensed programs was included in the Quote. Moreover, while CEC states that these are “institutional” settings, in fact, according to CEC’s Quote the Tully House is “a residential treatment and work release program,” while the Bo Robinson facility is “a full minimum security male/female comprehensive assessment center.” (CEC Quote, Volume II, Exhibit 8.) There was no other information contained within the Quote that would demonstrate that either of these facilities are either in-prison or licensed in-prison SUD programs similar to the scope of work sought by the Solicitation. Further, CEC also mentions that “further successes are shown in CEC’s licenses in Florida, Pennsylvania and Illinois and through maintenance of an impeccable American Correctional Association accreditation record.” A review of CEC’s Quote however reveals no mention that these additional facilities are licensed in-prison programs.

Accordingly, CEC’s referenced Quote language does not support its protest allegation that it presented experience with a licensed in-prison SUD program.

**Example 2:**

Second, CEC references the following information contained within its Quote in support of its protest:

- **CEC Proposal, Page 25:**  
CEC’s effectiveness in this role is further supported by our current role as a service provider at RCRP locations at:
  - The Albert M. “Bo” Robinson Assessment and Treatment Center – Trenton, NJ
  - The Harbor – Newark, NJ (**a licensed intensive outpatient treatment center**)

As noted above, the Hearing Unit’s review of CEC’s Quote reveals that both of these referenced facilities are in-fact community outpatient treatment center programs, not in-prison SUD programs. These facilities are mentioned in the portion of CEC’s Quote illustrating compliance with Solicitation § 3.2.5.2 *Continuum of Care*, and although CEC attempts to use these facilities as an indication of its “experience in managing institutional substance abuse program participant flow” the description of these facilities and their services as indicated in CEC’s Quote do not equate to experience for in-prison SUD programs.

Accordingly, CEC’s referenced Quote language does not support its protest allegation that it presented experience with a licensed in-prison SUD program.

**Example 3:**

Third, CEC references the following information contained within its Quote to demonstrate compliance with the Solicitation:

- **CEC Proposal, Page 81:**  
*Statewide Services in California*

CEC is the current operator of a CDCR program in California called Specialized Treatment for Optimized Programming (STOP) which began in November 2014 and was fully operational January 1, 2015. STOP is a service which provides linkages and aftercare to offenders referred through the Division of Adult Parole Operations, who have been paroled to Los Angeles County, the highest volume area for offenders returning to their home community in the State of California. **Pursuant to its contract with CDCR, CEC has subcontracts with and provides oversight to and supervision of 90+ licensed residential, outpatient and sober living facilities throughout Los Angeles County.** CEC's STOP Placement Office staff perform administrative, clinical, fiscal, quality assurance, transportation, case management, evidence-based programming fidelity oversight and training functions for this network of service providers for CDCR.

This network provides a wide variety of re-entry programming services that include individual assessments, case planning, case management, substance use disorder treatment, cognitive behavioral therapy, life skills, community and family reunification services, employment readiness and connections to transitional and full-time employment. CEC's STOP program serves over 1,700 men and women annually.

The Hearing Unit's review of CEC's Quote reveals that the language referenced above is related to community outpatient programs, not in-prison SUD programs as sought by this Solicitation. Nevertheless, a further review of CEC's Quote reveals CEC's experience with in-prison SUD programs as required by the Solicitation, including at CTF Solidad, CMC San Luis Obispo, Florida, Illinois, Pennsylvania, and Wyoming. It is apparent from the Committee Report that the Committee did consider and evaluate the in-prison SUD programs mentioned by CEC in its Quote. This program experience is reflected in the Committee's scoring of CEC's Quote. However, contrary to CEC's protest, the Quote language does not support its allegation that it presented experience with a licensed in-prison SUD program.

#### **Example 4:**

Fourth, CEC references the following information contained within its Quote to demonstrate compliance with the Solicitation:

- **CEC Proposal, Page 103 chart – 9 programs are listed in Florida with the following description:**  
Intensive in-custody CBT services of four to six (4-6) months duration, **licensed through Florida Department of Children and Family Services (DCYF).** This type of program is called "Modality I" in the State of Florida.

In reviewing this example, the Hearing Unit found that although CEC cites to nine programs listed to demonstrate in-prison SUD experience, these listed programs are Cognitive Behavioral Therapy/mental health programs for youths, which the Committee and the Solicitation equate to the Psycho-Educational Initiative requirements, as opposed to the in-prison SUD programs for adults.

Again, as noted above, contrary to CEC's protest the referenced Quote language does not support its allegation that it presented experience with a licensed in-prison SUD program.

**Example 5:**

Fifth, CEC references the following information contained within its Quote in support of its protest:

- **CEC Proposal, Page 111 chart – regarding the CEC programs at Gainesville Correctional Institution and Madison Correctional Institution, the following descriptions are provided:**  
TC at Gainesville Correctional Institution Modality 2: Long-term Residential Therapeutic Community services of nine to twelve (9-12) months' duration, **licensed through DCYF SAT Program** at Madison Correctional Institution Intensive in-custody CBT services of four to six (4-6) months duration, **licensed through Florida Department of Children and Family Services (DCYF)**. This type of program is called "Modality 1" in the State of Florida.

The Hearing Unit's review of the record reveals that the Gainesville Correctional facility is a licensed long-term residential (LTR) therapeutic community services program, not an in-prison SUD program. Further, the Madison Correctional facility is a licensed intensive in-custody cognitive behavioral therapy (CBT) program as opposed to a licensed in-prison SUD program.

Accordingly, CEC's referenced Quote language does not support its protest allegation that it presented experience with a licensed in-prison SUD program.

**Example 6:**

Sixth, CEC references the following information contained within its Quote to demonstrate compliance with the Solicitation:

- **CEC Proposal, Pages 47-48, concerning Quality Assurance:**  
CEC will create a quality management plan that provides the basis for monitoring the quality of the program's performance with regard to mission, mandate and modality. Additionally, it will serve to monitor our compliance with standards of the DOC/SCM and the Core Program Standards, **licenses necessary for contracts** and local/state/federal standards as they apply.

[CEC Protest, p. 7-10, *emphasis in the original.*]

The Hearing Unit's review found that the language cited by CEC is an excerpt from its Quote response regarding Quality Assurance. While the cited language addressed CEC's plan to ensure monitoring for the quality of the program and notes that "[s]imilar plans have been developed for in-prison and reentry programs throughout [CEC]," it does not provide any evidence of past or current licensed in-prison SUD program experience.

Therefore, as noted above, CEC's referenced Quote language does not support its protest allegation that it presented experience with a licensed in-prison SUD program.

Finally, on this point, CEC states that Solicitation § 4.4.4.5 *Experience with Blanket P.O. {Contracts} of Similar Size and Scope* does not mention experience with licensed in-prison SUD programs as a requirement. (CEC Protest, p. 10.) While this section of the Solicitation does not specifically list licensed in-prison SUD experience as a requirement; this Solicitation seeks a contractor to provide a licensed in-prison SUD program. (See, Solicitation § 3.0 *Scope of Work*.) Section 4.4.4.5 *Experience with Blanket P.O. {Contracts} of Similar Size and Scope* requests that the Bidder "provide a comprehensive listing of contracts of similar size and scope that it has successfully completed, as evidence of the Bidder's

ability to successfully complete services similar to those required by this Bid Solicitation {RFP}. Emphasis should be placed on contracts that are similar in size and scope to the work required by this Bid Solicitation {RFP}.” As previously noted, while this Solicitation did not require licensed in-prison SUD experience as a pre-requisite for bidding, the Committee’s scores would reflect the Bidders’ demonstration in their Quote of prior experience providing licensed in-prison SUD programs.

In response to the protest, the Bureau notes that there are significant differences between community programs such as those demonstrated by CEC and licensed in-prison SUD programs. Those differences include, but are not limited to: (1) Security concerns; (2) Inmate classification status; (3) Incentivized programming; (4) Handling of inmate disciplinary issues; (5) Outside court demands; and (6) Specialized Housing concerns. Therefore, while CEC demonstrated experience with in prison and community based programs in its Quote, it would have been a stronger proposal if it also presented experience with contracts of a similar size and scope as that sought by the Solicitation, specifically licensed in-prison SUD programs.

Based upon the information contained in CEC’s Quote the Committee concluded that relative to Criteria B – *Experience of the Firm* in successfully completing contracts of a similar size and scope in relation to the work required by the Solicitation, that:

CEC has approximately 20 years of experience providing various treatment services across state prisons, correctional institutions, and residential reentry programs, often with large participant numbers as noted on page 80 of its Quote. CEC also has experience in multiple states, facilitating a statewide program in Pennsylvania. The Committee is concerned; however, with the absence of experience in a licensed program as improper licensure would result in sanctions, with a potential for a disruption in programming. This inexperience may also be reflected in the low number of proposed staff as compared to the DOC estimations.

The Hearing Unit’s independent review of CEC’s Quote is consistent with the finding set forth in the Committee’s report. Specifically, the Hearing Unit found that CEC’s Quote does reference experience with licensed outpatient facilities; however, CEC’s Quote did not identify any licensed in-prison SUD programs. While it is apparent from its Quote that CEC has experience with providing in-prison treatment programs, and licensed outpatient treatment programs, CEC’s Quote does not demonstrate experience providing licensed in-prison treatment programs consistent with the work sought by the Solicitation. Its Quote score reflected this fact.

For the sake of completeness I note that the Committee, in reviewing the Quotes submitted by Gateway and another bidder, determined that these two Bidders, in addition to providing details of in-prison SUD program experience, also provided details that their in-prison SUD programs were licensed. Therefore, the Committee, comprised of subject matter experts, determined that because the Solicitation seeks a contractor to provide a licensed in-prison SUD program, the fact that Gateway and another bidder showed evidence of licensed in-prison SUD program experience, their respective Quotes received a higher score than those Quotes submitted by other Bidders who did not demonstrate experience with a licensed in-prison SUD program. As noted above, while CEC’s Quote does illustrate experience with in-prison SUD programs, it does not provide evidence of or any detail regarding the licensure of the various in-prison SUD programs discussed. Although CEC’s protest letter attempts to clarify the instances in its Quote that demonstrate licensed in-prison SUD experience, the detail regarding experience providing licensed in-prison SUD programs is not included in the Quote. As provided in case law the Committee is required to make its evaluation determination based upon information contained within the submitted Quotes. See, In re Protest of Award of On-Line Games Prod. And Operation Servs. Contract, 279 N.J. Super. 566, 597 (App. Div. 1995) (“In clarifying or elaborating on a proposal, a bidder explains or amplifies what is already there. In supplementing, changing or correcting a proposal, the bidder alters what is there. It is the alteration of the original proposal which was interdicted by the RFP.”).



**B. CEC's Proposed Staffing Levels**

CEC alleges that it established appropriate staffing levels to meet the requirements of the Solicitation based upon the data provided to potential Bidders in the Solicitation and in response to bidder questions. (CEC Quote, p. 11.)

First, CEC states that the Bureau failed to provide data upon which staffing levels could be determined. CEC references numerous questions posed by potential Bidders inquiring as to the anticipated number of participants; and alleges that no response was provided to the detriment of Bidders. By way of example, CEC refers to the following questions posed by potential Bidders and the Bureau's responses:<sup>4</sup>

#	Page #	RFP Section Reference	Question (Bolded) and Answer
4		Percentages of clients at each LOC	<p><b>What is the estimated percentage of clients who will be initially assessed as needing each level of care - Short-Term Residential, Long-Term Residential, Intensive Outpatient and Outpatient?</b></p> <p>There is currently no historical data available to the DOC with regards to licensed levels of care.</p>
85	Appendix A, P. 1	Section A 1	<p><b>Does the DOC have an estimate of the number and/or percentage of SUD participants who will be receiving treatment in each of four levels of care; OP, IOP, STR, LTR?</b></p> <p>This information is not available as the SUD program is new and there is no historical data available to the DOC with regards to licensed levels of care.</p>

The questions posed by the potential Bidders sought a breakdown of the anticipated enrollment in each level of care - Short-Term Residential, Long-Term Residential, Intensive Outpatient and Outpatient. CEC alleges that the information should have been provided to potential Bidders and the Committee withheld the information to the detriment of it and other Bidders. In response to the protest, the Bureau advises that the breakdown of staffing levels was not available at the time of the Solicitation development or the issuance of Bid Amendment {Addendum} #2, because, as the services sought are new, there was no historical data available. However, Solicitation § 1.2.2 *SUD Programs*, Solicitation § 3.2.9.1 *Staff Matrix*, Appendix A, and Bid Amendment {Addendum} #2, provided the available details regarding current program staffing and the offender population. Providing inaccurate information about potential program usage would not have assisted Bidders in preparing a Quote response. Therefore, the Bureau's response to the questions posed were appropriate and ensured that all Bidders were on a level playing field. With respect to the creation of the staffing plan, it was anticipated that Bidders would provide staffing levels based on this information and their experience with the SUD and PEI programs.

CEC additionally states that it provided staffing levels consistent with the Bureau's response to Question #109 of Bid Amendment #2;

#	Page #	RFP Section Reference	Question (Bolded) and Answer
109	P. 29	Section 3.2.9.1 Staffing Matrix	<p><b>Will the DOC please provide current staffing complement for Vendor staff providing psychoeducational services at the NJDOC program locations listed on page 39?</b></p> <p>Currently, one (1) overall supervisor and one (1) staff member per region (3 total) for Restrictive Housing and one (1) staff member per region (3 total)</p>

<sup>4</sup> In its protest, CEC also refers to the following questions by the potential Vendors {Bidders} which sought information regarding the number of anticipated program participants: 22, 58, 59, 201, 204 and 221.

#	Page #	RFP Section Reference	Question (Bolded) and Answer
			for General Population. Additionally, there is one (1) staff member acting as a back-up for all sites.

Based upon the Bureau's response to the question, CEC argues that the Committee's conclusion that its proposed staffing levels were low, is inaccurate.

As noted in the Bureau's response to Question #109, the current PEI programming has eight (8) staff members. However, the services sought by this Solicitation include the re-opening of Mid State Correctional Facility (MSCF) and additional programming such as gamblers anonymous. Bidders were aware that this Solicitation (Solicitation § 1.2 *Background*) sought additional services to that offered under the current contract; and moreover, potential Bidders, including CEC, attended a site visit at MSCF on August 18, 2016 and toured the vacant facility. Therefore, Bidders were aware that proposed staffing levels would need to be more robust than currently provided.

In further support of its position that its proposed staffing levels were accurate, CEC references the Bureau's response to Question #107 of Bid Amendment #2.

#	Page #	RFP Section Reference	Question (Bolded) and Answer
107	P. 29	Section 3.2.9.1 Staffing Matrix	<p><b>For the approximately 30 inmates processed each day at CRAF, how much time/duration is estimated for each inmate assessment?</b></p> <p>Currently there are no Vendor {Contractor} SUD assessment functions at CRAF. As such, DOC cannot provide an estimate. Vendors {Bidders} should determine appropriate staffing levels for Assessments at CRAF based on Bid Solicitation {RFP} section 3.2.9.1.</p>

CEC claims that it incorporated the referenced Solicitation information into its proposed staffing plan, and that its proposal of 3 counselors to complete 16 assessments, essentially 24 hours of staffing daily, is consistent with the Solicitation requirements, and its experience providing the services sought by the Solicitation. CEC states that the requirement for 10 assessment staff, as noted in the Committee Report, is absurd and fiscally unsound.

In responding to the Hearing Unit's inquiry, the Bureau acknowledges that the Committee Report contains a clerical error. The Committee Report should have included the following staffing levels:

All Programs	Required FTE*
SUD Counselors (MSCF)	36.5
SUD Counselors (EMCFW)	3.6
SUD Supervisory Staff	6
PEI – GP	5
PEI – RHU	5
PEI Supervisory Staff	1
Assessment Staff	<del>10</del> 8
Administrative Staff	7
<b>Total minimum FTE</b>	<del>74.1</del> 72.1

\* Error struck and corrections underlined in red

Based upon this corrected information, the Committee Report should have noted the following:

\*SUD Supervisory Staff = 6 FTE (1 Statewide Director, 2 Program Directors, 3 Clinical Supervisors MSCF)  
PEI (GP) = 5 FTE (Regional Counselors)  
PEI (RIHU) = 5 FTE (Regional Counselors)  
Administrative Staff = 7 FTE (for 1 Statewide Director, 2 Program Directors, 1 CRAF, 3 Regional PEI).  
Assessment Staff (1 hour assessment for ~~30~~ ~~15~~ inmates/day) = ~~10~~ ~~8~~ FTE (~~7~~ ~~5~~ FTE CRAF, 3 regionals to attend classification at 10 facilities/ track graduates for periodic SUD level of care assessments, re-entry to facilities and/or the community)

To the extent that CEC claims that the proposed staffing levels were fiscally unsound, this allegation is without merit. With respect to the makeup of the Committee, N.J.S.A. 52:34-10.3(c) states in pertinent part that “[i]n all cases, persons appointed to an evaluation committee shall have the relevant experience necessary to evaluate the project.” Here, the Committee was comprised of experts from DOC and the Division who have experience working with and supervising treatment programs. The Committee’s consultant, a psychiatrist with almost 20 years of experience in both community and correctional settings created an estimated level of staffing to be used in the evaluation process. Specifically, the doctor relied upon significant expertise, including consulting with mental health and addiction directors of correctional institutions in other states providing both licensed and non-licensed in-patient SUD programs; his own experience as a mental health provider regarding the incident rates of inmates with substance use disorder; and information from the Division of Mental Health and Addiction Services (DMHAS) regarding staffing ratios.<sup>5</sup> The level of staffing used for evaluation purposes by no means dictates the staffing level to be employed by the Contractor in performing the work sought by this Solicitation as it was anticipated that that Bidders would provide staffing levels based on their experience with the SUD and PEI programs. In fact, the staffing levels proposed by Gateway and three other Bidders exceeded the estimated staffing level noted in the Committee Report.<sup>6</sup>

I directed the Hearing Unit to review the Committee Report error and its impact as I regret any error made by the Committee. Despite the fact that the Committee Report contained a clerical error, the same number of proposed Assessment staff was used to evaluate all Quotes received. Therefore, there was no prejudice to any one Bidder. Even utilizing the correct number, CEC’s proposal ranking does not change.

Further, I note that the Committee recommendation of Gateway for the contract award was based upon the total technical score received as opposed to the proposed level of staffing. In its Report, the Committee noted

Its Quote demonstrated a very good understanding of the program requirements and its plan to provide the required services. Specifically, Gateway demonstrated excellent staffing compliance, broad program experience including licensure, and presented a detailed and thoughtful methodology geared toward positive outcomes. Gateway is the only Vendor to demonstrate successful experience in the opening of a licensed SUD treatment program in a correctional facility for a state (Illinois) prison system. Gateway’s Quote is cost effective and the Committee is satisfied with its demonstration of how Gateway would successfully

<sup>5</sup> DMHAS’ staffing ratios determine a minimum level of staffing for licensed activities but it does not indicate the number of inmates with substance use disorders who may be enrolled in the specific program. These ratios were set forth in RFP Appendix A.

<sup>6</sup> Bidders proposed the following staffing levels: 112.9, 93.2, 84 (Gateway), 80, 64.5 and 59.5 (CEC).

perform the requirements of the Blanket P.O. It is for these reasons that the Committee is unanimous in recommending Gateway for a Blanket P.O. award, as its Quote represents the most advantageous offer to the State, price, and other factors considered.

[Committee Report, p. 11]

Accordingly, with respect to the number of Assessment Staff necessary to complete the work required, I must defer to the subject matter experts.

Second, CEC claims that the criteria used to evaluate bidder staffing levels was not disclosed to Vendors {Bidders}. CEC states that had Bidders been advised that staffing levels would be evaluated based upon a “price per FTE,” Bidders could have executed their staffing plans differently.<sup>7</sup> As noted above, Solicitation § 6.7 *Evaluation Criteria* advised all potential Bidders of the criteria that would be employed to evaluate the Quotes received stating “the following evaluation criteria categories, not necessarily listed in order of significance, will be used to evaluate Quotes {Proposals} received in response to this Bid Solicitation {RFP}. The evaluation criteria categories may be used to develop more detailed evaluation criteria to be used in the evaluation process.” Solicitation § 6.7.1 *Technical Evaluation Criteria* further identified the three criteria that would be used to evaluate the Quote received.

As noted in the Committee Report, while the Quote pricing submitted includes treatment beds, intake assessments, and PEI; staffing costs represent the vast majority of overall program costs. Therefore, the Committee determined that a general comparison of Quote pricing verses proposed staffing level would be helpful. Accordingly, as permitted by Solicitation § 6.7, a more detailed evaluation criteria was developed and employed to analyze the bidders’ proposed staffing levels compared to their respective Quote pricing. All bidders’ Quotes were evaluated in the same manner; therefore, there was no prejudice to the Bidders.

I further note that with respect to CEC’s proposal, the Committee concluded:

CEC’s Quote demonstrated a good outline of communication with the State. The Quote provided a staffing plan with good job descriptions and the Committee noted CEC’s training academy as a positive point. Its transition plan appears reasonable, and although CEC indicated that it would meet DOC’s staffing needs, CEC’s Quote, Exhibit 7 included a low level of staffing. CEC proposed the lowest staffing levels of the six (6) Quotes and the Committee expressed concerns that CEC could fall short in the delivery of all required programming and SUD assessments if not staffed properly. This concern is further explained in Section VIII of this report.

[Committee Report, p. 12.]

Contrary to CEC’s protest, the Committee did not deem that CEC “failed” in this regard. However, the Committee concluded that Gateway, who had the highest technical score, provided the best overall value per FTE. (Committee Report, p. 17.)

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<sup>7</sup> Solicitation § 2.3 *Blanket P.O. {Contract} Specific Definitions/Acronyms* defines “Full Time Equivalent (FTE) – Work equivalent to the work performed by one person in 40 hours in one (1) week. FTE is expressed on a weekly basis according to the Vendor’s {Contractor’s} payroll period (Sunday through Saturday).”

Third, CEC states that the Committee used an inaccurate calculation of Administrative Staff, specifically, that the Committee counted 3 positions twice (1 Statewide Director, 2 Program Directors) which led to the erroneous conclusion of an FTE total of 74.1. In response to the protest, the Bureau states that the referenced positions were not counted twice. The Committee Report stated the following:

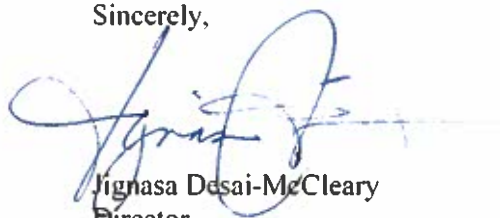
\*SUD Supervisory Staff = 6 FTE (1 Statewide Director, 2 Program Directors, 3 Clinical Supervisors MSCF)  
Administrative Staff = 7 FTE (for 1 Statewide Director, 2 Program Directors, 1 CRAF, 3 Regional PEI).

The Hearing Unit reviewed and confirms that the positions were not double counted. SUD Supervisory Staff includes the positions of 1 Statewide Director and 2 Program Directors, whereas Administrative Staff refers to the support staff position for the directors. Therefore, contrary to CEC's belief, there was no double counting of positions.

Consistent with the findings set forth above and my review of the record of this procurement, I find no reason to overturn the Committee and Bureau's recommendation that a contract be awarded to Gateway. Therefore, I sustain the January 18, 2017 NOI. This is my final agency decision with respect to the protest submitted by CEC.

Thank you for your company's interest in doing business with the State of New Jersey and for registering your company with [V/START](http://www.njstart.gov) at [www.njstart.gov](http://www.njstart.gov), the State of New Jersey's new eProcurement system.

Sincerely,



Jignasa Desai-McCleary  
Director

c: M. Tagliaferri  
P. Michaels  
G. Olivera