



# State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
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November 17, 2016

Via Electronic Mail [[meca@stevenslee.com](mailto:meca@stevenslee.com)] and USPS Regular Mail

Maeve E. Cannon, Esq.  
Stevens & Lee  
Princeton Pike Corporate Center  
100 Lenox Drive, Suite 200  
Lawrenceville, NJ 08648

Re: Specification Challenge  
Bid Solicitation {Request for Proposal} #16DPP00044  
Auditing Services: Financial Auditing Firms for Using Agencies and NJDEP

Dear Ms. Cannon:

This correspondence is in response to your letter dated August 19, 2016, to the Hearing Unit of the Division of Purchase and Property (Division) on behalf of Mercadien Group, Inc. (Mercadien) challenging certain specifications of the subject Bid Solicitation {Request for Proposal} #16DPP00044: Auditing Services: Financial Auditing Firms for Using Agencies and NJDEP (RFP). In that letter, Mercadien alleges that the RFP is flawed because it does not define the positions for which pricing is required.

In consideration of Mercadien's specification challenge, I have reviewed the record of this procurement, including the RFP, 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 agency determination regarding Mercadien's specification challenge.

## BACKGROUND

By way of background, this solicitation was advertised by the Division's Procurement Bureau (Bureau) on July 5, 2016 on behalf of various State Using Agencies, State Cooperative Purchasing Partners, and the New Jersey Department of Environmental Protection's (NJDEP) Site Remediation Program (SRP) to solicit Quotes {Proposals} for financial auditing firms to provide various types of audits and reviews, including but not limited to, financial, compliance, operational or performance, information systems/technology, and internal control. RFP § 1.1 *Purpose and Intent*. The intent of this solicitation is to award multiple Master Blanket Purchase Orders (Blanket P.O.s) {Contracts} to financial auditing firms to provide various types of audits and reviews, including but not limited to, financial, compliance, operational or performance, information systems/technology, and internal control. RFP § 1.1 *Purpose and Intent*. Contracts will be awarded to those responsible Vendors {Bidders} whose Quotes {Proposals}, conforming to this solicitation are most advantageous to the State, price and other factors considered. Ibid. The Using Agencies in Pool 1 will have up to fifteen (15) Vendors {Contractors} selected and the NJDEP Pool 2 will have up to five (5) Vendors {Contractors} selected. The Using Agencies for Pool 1 and NJDEP

for Pool 2, will conduct a mini-bid to select a specific Vendor {Contractor} for a work assignment by using the engagement process outlined in RFP § 3.0 *Scope of Work*.

In accordance with the requirements of this solicitation, questions were to be submitted electronically through the Q&A tab in *NJSTART* by July 22, 2016. RFP § 1.3.1 *Electronic Question and Answer Period*. The record of this procurement reveals that 22 questions were received from potential bidders during the Q&A period all of which were responded to the Bureau through its posting of Amendment #3 on September 1, 2016. Because Mercadien submitted its question after the close of the Q&A period, the Division's Hearing Unit will accept Mercadien's August 19, 2016 letter as a specification challenge.<sup>1</sup>

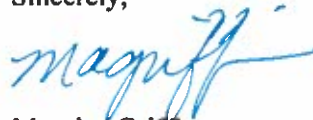
In its specification challenge, Mercadien states that "the price schedule from the RFP provides four categories of professional skill classification: partner, manager, senior accountant, and staff accountant. However, no definition or further explanation as to the skills, experience, education, certifications or other requirements for each position is provided in the RFP." Mercadien further notes that in prior solicitations, the State had defined the qualifications for each of the identified positions. Finally, Mercadien claims that:

The lack of definition for these professional skill classification positions in the RFP poses a difficult and ambiguous scenario for bidders responding to this solicitation. May consultants be utilized in lieu of CPAs if they have auditing level experience? Will other qualifications now substitute for those of partner, manager, senior and staff different from the definitions found in the prior RFPs? Mercadien has senior level consultant personnel who, while not CPA certified, have many years of auditing experience with the State and in CFO level positions. Will this type of experience now be exchangeable for or able to be utilized for the four identified staff level positions? In other words, will it be up to the bidder, using its own internal criteria, to assign personnel to these identified professional skill classifications?

The price sheet for the subject solicitation lists four professional skill levels for which bidders must submit proposal pricing – Partner, Manager, Senior Accountant, Staff Accountant. With respect to Mercadien's challenge to the specifications, the Hearing Unit's review has resulted in a revision to this Solicitation. Bid Amendment #4 has been posted on *NJSTART* in connection with this Solicitation.

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

Sincerely,



Maurice Griffin  
Chief Hearing Officer

MAG: RUD

c: P. Michaels  
M. Tagliaferri  
B. Pavia

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<sup>1</sup> In the future, Mercadien should be cognizant of the RFP deadlines as this specification challenge could have been properly addressed during the Q&A Amendment had the questions been timely submitted by the July 22, 2016 deadline.