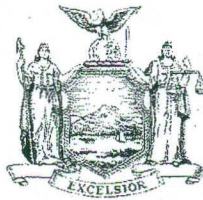


THOMAS P. DINAPOLI
STATE COMPTROLLER



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ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

May 31, 2011

Mr. William D. Whalen
Business Development
Geneva Worldwide, Inc.
261 West 35th Street – Suite 700
New York, NY 10001

Re: Appeal of the Office of Mental Health (OMH) Protest Determination
regarding Invitation for Bid #C0008445; American Sign Language
Translation Services

Dear Mr. Whalen:

This letter is in response to your appeal (hereinafter "Appeal") of the above referenced Protest Determination by the New York State Office of Mental Health (OMH) regarding its contract awards to American Sign Language, Inc., and Interpreters Unlimited LLC (hereinafter collectively "the winning bidders") for sign language translation services pursuant to Invitation for Bid #C0008445. We have reviewed your letters dated April 6, 2011, and May 3, 2011, and have determined that the issues raised in such letters do not constitute a basis for setting aside OMH's proposed contract awards.

First, you argue that OMH failed to verify that the winning bidders are able to provide a sufficient number of RID or NAD certified sign language interpreters, as required under the program work plan, at the prevailing market rates. The work plan requires the winning bidders to provide a RID certified interpreter within 48 hours of a request for services and one backup RID certified interpreter (*see* Appendix D Program Work Plan, Section A). The work plan did not specify a minimum number of RID certified interpreters that must be employed or engaged by a bidding firm at any particular time. Moreover, the winning bidders signed a contract boilerplate which states that such contractor is "ready, willing and able" to provide the services required under the terms of the contract, and there is nothing in your appeal papers to contradict that certification made by the winning bidders. In addition, neither the work plan nor any other section of the IFB required bidders to provide NAD certified interpreters. Thus, it

is clear that the winning bidders were responsive to the IFB and met its mandatory requirements. It should also be noted that the bid submitted by Interpreters Unlimited LLC specifies a New York based subcontractor which Interpreters Unlimited intends to use to ensure that it will have a sufficient supply of interpreters available.

Furthermore, the Office of the State Comptroller (OSC) is satisfied that the pricing offered by the winning bidders is representative of the prevailing market rates. In the context of an IFB, which is the appropriate solicitation to be used where, as here, the award is to be based on lowest price alone, this Office would only question the integrity of the prices offered by the lowest bidders if such prices are significantly lower than those of the other bidding firms. Here, based on our review of all the bids, for all regions, this is not the case. Additionally, it should be noted again that, in the event that the winning bidders prove unable to meet the requirements of the contract at the rates offered in their bids, OMH may terminate the contract.

Finally, you argue that OMH failed to uncover the fact that American Sign Language, Inc. ("ASLI") operates out of a residential address and, according to your papers, is "operating in violation of housing laws and better business practices." Your assertion in this respect appears to be based upon the fact that ASLI operates out of an apartment in New York City. However, you have failed to provide any documentation that the appropriate municipal authority has determined that ASLI (or its principal) is in violation of any housing law, or even that its operation out of a residence would violate any law.¹ Under these circumstances, we decline to find ASLI to be a non-responsible vendor based upon the unsupported assertions made in your protest concerning its business address. Further, this Office does not agree that the corporate address of ASLI violates "better business practices." In this regard, we note that both winning bidders provided an impressive corporate history and list of references, including past business with Federal and State Governmental entities.

Turning to the general appropriateness of OMH's "due diligence" inquiry into the winning bidders, OMH has verified that it conducted a Vendor Responsibility background check on the awardees and did not discover anything unfavorable. This Office also performs its own independent Vendor Responsibility review and has also not uncovered any evidence that would result in a finding of non-responsibility. In light of the fact that OMH conducted the appropriate Vendor Responsibility review, and required in the bid solicitation that each winning bidder provide proof of RID certification for each interpreter providing services (*see* Appendix D Program Work Plan, Section C), this

¹ We also note that Robin Goldman, of OMH Counsel's Office, in an e-mail dated May 26, 2011, has asserted the view that there is no violation of the New York City zoning laws, and attached to her e-mail a copy of a letter from Christopher Parnagian, the attorney for ASLI, in which he states that to his knowledge "there is no credible basis to conclude that the Business Address [of ASLI] is improper or impermissible." Mr. Parnagian further indicates that "[i]n the unlikely event" that it was demonstrated that ASLI cannot properly use the residence as its business address "then ASLI, I have been informed, would promptly make arrangements to establish a different business address in New York County or elsewhere in New York State." Ms. Goldman was asked to forward to you a copy of her e-mail, including Mr. Parnagian's letter.

Office is satisfied that OMH has fulfilled its due diligence obligation in connection with the IFB.

In sum, based upon review of the procurement record and the information provided, OSC has determined that the grounds advanced in your Appeal are without sufficient merit to overturn the contract awards to the winning bidders. Therefore, OSC hereby denies the Appeal and is today approving the contracts with the winning bidders.

Sincerely,

A handwritten signature in cursive script that reads "Charlotte E. Breeyear". The signature is written in black ink and is positioned above the printed name and title.

Charlotte E. Breeyear
Director, Bureau of Contracts

CEB:arr

cc: David E. Milstein, OMH
American Sign Language, Inc.
Interpreters Unlimited LLC