

# NEBRASKA

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DEPT. OF ADMINISTRATIVE SERVICES



Pete Ricketts, Governor

October 6, 2021

Vedder Price P.C.  
Attn: Kelly Buroker & Tamara Droubi  
1401 I Street NW, Suite 1100  
Washington, DC 20005

Re: *RFP 6506 Z1, Statewide Web-Based Permit/Licensing System*  
*Protest of Award*

Mses. Buroker & Droubi:

We are in receipt of your protest dated September 22, 2021, protesting the intent to award for RFP 6506 Z1 ("Protest") on behalf of RA Outdoors, LLC d/b/a Aspira ("Aspira"). In the Protest, Aspira alleges that the evaluation of the Best and Final Offers ("BAFO" or "BAFOs") submitted by Aspira and Terra Technology Group, LLC ("Terra Tech") was unreasonable as it failed to properly account for the true costs to the State. In summary, the basis of Aspira's claim is that (1) Aspira did not intend to charge the State until the go-live date, (2) Aspira's go-live date is November 14, 2022, (3) Aspira intended the amount Aspira bid to be prorated, and (4) Terra Tech is charging transaction fees in the first contract year, in addition to implementation fees. As such, Aspira claims that Aspira was prejudiced.

After careful review and consideration, the State responds as follows:

1. Aspira has no basis to assert that Terra Tech will charge transaction fees on top of implementation fees, as Aspira suggests. See Protest p. 13. Terra Tech did not bid any transaction fees in Year One. See Terra Tech's BAFO Cost Proposal Sheet, Attachment D. In fact, Aspira acknowledges that there is no reason to believe transaction fees will be charged in addition to implementation fees in Year One. See Protest, fn. 5.
2. Aspira did not include any costs during the initial contract period – Year One for subscription fees, test environment, production system, configuration, data conversion, or implementation and testing. Instead, Aspira included a Year One cost of \$899,125.00 in billable items. In the protest, Aspira asserts that this would not be the true cost to the State because Aspira's bid would be prorated and Aspira would only collect 17 days' worth of transaction fees in Year One based off of the expected go-live date. While we understand Aspira's position, the Cost Proposal Sheet stated that "[f]or scoring purposes, the 2020 figures provided [sic] below will be used to calculate cost." Because implementation dates are speculative and subject to change, in order to conduct a fair evaluation the State did not make any assumptions as to whether costs bid by Aspira or any other bidder would be prorated. If Aspira intended to prorate its bid or anticipated charging less than what was actually bid in contract year one, Aspira could have represented this as a flat fee in a category such as "Go-Live" and/or not bid any costs for the billable items.

Amara Block, Materiel Administrator & General Counsel

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Consequently, we find the contract was appropriately awarded and in accordance with law. The Intent to Award will stand and the grievance submitted by RA Outdoors, LLC d/b/a Aspira is denied.

We thank you for your interest in doing business with the State of Nebraska and although the State will uphold the Intent to Award, we sincerely thank you for your time and feedback regarding our procurement process. As with any other feedback, we will use this as a learning opportunity to make our process better for our customers and vendors.

Sincerely,



Amara Block, Materiel Administrator and General Counsel  
Department of Administrative Services

cc: Connie Heinrichs, SPB Buyer  
Pete Kroll, SPB Procurement Supervisor

jls

