



Department of Transformation and Shared Services

Governor Sarah Huckabee Sanders

Secretary Leslie Fiskens

February 10, 2025

Mr. Michael Cook
Mr. Greg J. Herrle
17335 Golf Parkway
Suite 100
Brookfield, WI 53045

RE: Milliman Protest of Anticipation to Award, RFP 710-25-001

Mr. Cook and Mr. Herrle,

The Office of State Procurement (OSP) has reviewed Milliman Inc.'s (Milliman) protest of the Department of Human Services's (DHS) anticipated award in solicitation number 710-25-001. DHS has named Guidehouse, Inc. (Guidehouse) as the anticipated awardee.

Milliman's protest asserts that "the procurement process involved responses that were...submitted in bad faith," that there were issues with the technical scoring and cost scoring evaluations, and that the "director of the procurement agency failed to adhere to the rules of the procurement as stated in the solicitation, and the failure to adhere to the rules of the procurement materially affected the contracted award." OSP will address each issue raised in your protest.

I. Background

On October 7, 2024, DHS issued public notice of a request for proposal (RFP), Solicitation No. 710-25-001, for actuarial services. Three (3) companies submitted proposals in response to the solicitation that resulted in a final scoring. Guidehouse, Inc. received the highest-scored proposal, and DHS issued the anticipation to award to Guidehouse. Deloitte Consulting, LLP (Deloitte) received the second highest scored proposal, and Milliman, Inc. received the third highest. Milliman timely filed a protest pursuant to Ark. Code Ann. § 19-11-244(a)(3).

II. Legal Basis for Protests

Arkansas Procurement Law contains a protest process where offerors may inform the State Procurement Director of specific grievances in the solicitation process. However, those grievances are limited to the following grounds: (1) the award of the contract exceeded the authority of the director or the procurement agency; (2) the procurement process violated a constitutional, statutory, or regulatory provision; (3) the director or the procurement agency failed to adhere to the rules of the procurement as stated in the solicitation, and the failure to adhere to the rules of the procurement materially affected the contract award; (4) the procurement process involved responses that were collusive, submitted in bad faith, or not arrived at independently through open competition; or (5) the anticipated contract resulted from a technical or mathematical

error made during the evaluation process. Ark. Code Ann. § 19-11-244(a)(4)(A). The party submitting a protest has the burden of stating facts showing that the protestor has facts to support one of these grounds. R.3: 19-11-244.

III. Protested issues

a. Proposed Staffing

Milliman's first argument pertains to the staffing distribution proposed by Guidehouse and Deloitte. It claims that Guidehouse's and Deloitte's staffing plan proposal will not meet DHS's expectations or historical needs. In response to the RFP, Milliman proposed a staffing model that it claims aligns with its existing contract with DHS. Milliman's proposal designated a higher percent distribution of hours to "principal/lead" and "senior/consultant" staff than "junior/analysis" staff. In contrast, Guidehouse and Deloitte proposed lower percentage to "principal/lead" and "senior/consultant" staff and a higher percentage to "junior/analysis" staff.

This argument fails to provide facts substantiating a protest ground. Milliman does not cite any provision of the RFP that required a staffing model consistent with its current contract or that mandated a specific staffing distribution. Vendors were afforded discretion in proposing staffing models that best aligned with their understanding of DHS project's requirements. Therefore, Milliman did not demonstrate that DHS failed to adhere to the rules of the RFP or that the competitors' proposals were submitted in bad faith.

b. Minimum Qualifications

Milliman also claims the other responsive vendors did not meet the minimum qualifications required by the RFP. It specifically argues that Guidehouse did not meet the level of service and expertise needed by DHS to fulfill the contract's terms, including the summary of work hour distributions among "principal/lead," "senior/consultant," and "junior/analyst." In support, Milliman cites Section 2.3 of the RFP that states, "key actuarial and consulting personnel...must have a minimum ten (10) years professional experience as the actuary of record in commercial and Medicaid Managed Care rate setting in at least three (3) states."

Based on my independent review of Guidehouse's proposal, I conclude that Guidehouse's employees' experience satisfies the RFP requirement. Guidehouse's key actuarial and consulting personnel have the required minimum ten (10) years professional experience certifying capitation rates in several states and have provided actuarial consulting services to the required minimum number states during that timeframe.

c. Technical Scoring

Milliman next asserts that its raw technical score is inconsistent with its current relationship with DHS. Milliman received the highest technical score of 3.75. Guidehouse scored second with 3.36 and Deloitte scored third with 3.22. Milliman argues that its score is inconsistent with the direct feedback it has received from DHS of its current work in the department.

Milliman's argument regarding scoring does not fall with the scope of grievances enumerated in Ark. Code Ann. § 19-11-244(4)(A). It fails to cite any procurement rules which were violated or demonstrate how or if the responses of its competitors were submitted in bad faith. As such, this argument fails.

d. Cost Scoring

Finally, Milliman argues that DHS's approach to cost scoring, which used a defined number of total hours and asked the bidders to indicate their cost per hour by position level, is "inherently flawed." This argument is not timely and does not articulate facts supporting any ground for a protest.

Any concerns regarding the process of scoring was knowable to Milliman prior to its bid submission, and therefore, Milliman should have presented its concerns by written notice at least seventy-two (72) hours before the filing deadline for the solicitation response. Ark. Code Ann. 19-11-244(a)(1); See *also* R2: 19-11-244.3. After the contract award is announced, it is too late to timely challenge the terms of the solicitation.

However, even if this issue had been timely raised, Milliman's argument also fails because it does not provide facts to substantiate that this cost scoring methodology violates any statutory or regulatory provisions or any other ground upon which a protest may be granted.

IV. Conclusion

Therefore, Milliman's protest is denied. DHS may proceed with the procurement consistent with Arkansas Procurement law. This determination is final and conclusive. Ark. Code Ann. § 19-11-244 (e)(1).

Sincerely,

A handwritten signature in black ink that reads "Jessica Patterson". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

Jessica Patterson
State Procurement Director