

GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD

PROTEST OF:

CNSI, Inc.)	
)	CAB No. P-0742
Under RFP No. POTO-2006-R-0077)	

For the Protester CNSI, Inc.: Matthew B. Hoffman, Vice President and Corporate Counsel. For the District of Columbia Government: Howard Schwartz, Esq., and Talia S. Cohen, Esq., Assistant Attorneys General.

Opinion by Administrative Judge Warren J. Nash, with Chief Administrative Judge Jonathan D. Zischkau, concurring.

OPINION

(Lexis-Nexis Filing ID 13010061)

CNSI, Inc. protests the District's issuance of an RFP for a Medicaid Management Information System ("MMIS") that requires offerors to submit for evaluation a MMIS system that has been certified by the federal Centers for Medicare and Medicaid Systems ("CMS"). CNSI alleges that the RFP requirement unnecessarily restrains competition. CNSI also requests extending the date for proposals by an additional sixty days. In its Motion to Dismiss, or in the alternative, Agency Report, the District responds that Amendment No. 4 moots CNSI's allegation regarding the restraint of competition, and that Amendment No. 5, which gives the protester an additional month to respond to the RFP, moots CNSI's second protest ground. Because Amendment No. 4 deletes the strict MMIS certification requirement, and Amendment No. 5 extended the closing date by one month, we dismiss the protest as moot.

BACKGROUND

On June 30, 2006, the District of Columbia Office of Contracting and Procurement, ("OCP"), for the District Department of Health, Medical Assistance Administration ("DDOH"), issued RFP No. POTO-2006-R-0077, for a contractor to, among other things, provide, enhance, and implement a federally owned and certified MMIS. Section C.1.5 of the RFP states that "the District is seeking a contractor to provide an existing CMS¹ certified MMIS System with enhancements as specified by the District." The RFP established a closing date of August 11, 2006. Amendment Nos. 1 and 2 extended that date to September 25, 2006. In Amendment No. 4, issued September 13, 2006, the District deleted Section C.1.5 and substituted new language which reads as follows: "The District is seeking a contractor to provide an existing CMS certified or certifiable MMIS system with enhancements as specified by the District." Amendment No. 4 also defines a certifiable MMIS system as a system that has been identified by an independent third party MMIS expert as meeting the criteria of CMS certification and

¹ "CMS" is the acronym for the Centers for Medicare and Medicaid Services, formerly known as the Health Care Financing Administration, HCFA. See page 16 of the RFP.

accreditation. Amendment No. 5 also extended the closing date for submission of proposals to October 30, 2006.

CNSI filed this protest on September 19, 2006. In light of CNSI's failure to reply to the District's Motion to Dismiss, or, in the Alternative, Agency Report, the Board has accepted the District's uncontroverted statement of facts.

DISCUSSION

The District asserts that the protest is moot because (1) Amendment No. 4 removed the language that required offerors to submit proposals that provided an existing CMS certified MMIS system, and (2) the District extended the proposal due date to October 30, 2006. CNSI did not respond to the District's Motion to Dismiss. Accordingly, this Board may accept the District's factual assertions as uncontroverted, and agree that the protest grounds are now moot. See Board Rule 307.3, 49 D.C. Reg. 2079 (2002). Amendment No.5 was a substantial change to the solicitation, and the District asserts that Amendment No. 5 allows offerors to submit either certified or certifiable MMIS systems. Amendment No. 5 expands the range of MMIS systems that the District would evaluate, and it appears that Amendment No. 5 responds to CNSI's complaint. The District also extended the proposal due date. While the District did not extend the due date for the full sixty days requested by CNSI, the District did extend the date by more than thirty days. Again, with no response from CNSI, the due date extension appears to respond to CNSI's complaint. Therefore, we dismiss the protest as moot.

CONCLUSION

For the reasons discussed above, we dismiss the protest.

DATE: November 24, 2006

/s/ Warren J. Nash

WARREN J. NASH
Administrative Judge

CONCURRING:

/s/ Jonathan D. Zischkau

JONATHAN D. ZISCHKAU
Chief Administrative Judge

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