

# STATE OF ALASKA

SEAN PARNELL, GOVERNOR

## DEPARTMENT OF ADMINISTRATION

### *DIVISION OF ADMINISTRATIVE SERVICES*

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February 7, 2013

Robert P. Blasco  
Hoffman & Blasco, LLC  
9360 Glacier Highway, Suite 202  
Juneau, Alaska 99801

Subject: Response to Protest dated January 31, 2013  
RFP 2013-0200-1396

Dear Mr. Blasco:

Pursuant to AS 36.30.580, this correspondence constitutes my written decision, including the basis for my decision relative to the protest you filed on behalf of HealthSmart Benefit Solutions, Inc., as received by the State on January 31, 2013 (hereinafter "Protest"). After reviewing the Protest, the solicitation document, case law, applicable provisions of the procurement code, and the surrounding circumstances, it is my decision that the Protest be denied in its entirety aside from extending the closing date. The State disagrees with many of the factual assertions set forth in the Protest and reserves the right to contest such factual assertions in the future.

The State's language in Amendment 8, issued January 25, 2013 was neither arbitrary nor capricious. Indeed, it was issued only because of a specific question posed by HealthSmart. The date of issuance of the language by the State was governed solely by the date the question was posed by HealthSmart. In sum, the State's response was a direct result of HealthSmart's inquiry and the State has already provided an accommodation by extending the closing date.

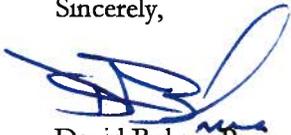
The State's request that Offerors provide certification that they are offering an independently negotiated network solution and that it is not controlled or operated by a competing Offeror was neither vague nor ambiguous and was supported by a reasonable basis. An Offeror's proposed network solution is an important factor in evaluating the ability of the Offeror to fulfill the purpose, scope, and intent of the RFP and the resulting contract(s). Confirming that an Offeror will have control over its offered network is necessary in order to determine responsibility. The requirement is also consistent with the RFP as a whole. Here, the RFP questionnaire(s) clearly include questions regarding the leasing of networks. The certification being requested directly supports an evaluation of the responses and determination of responsibility.

Use of certifications in a solicitation is a common practice and not required to be based on statute or regulation. If the language is part of the solicitation it becomes part of the overall requirements in determining whether an Offeror is responsible. This requirement can include asking for supplementary information to assure the prospective contractor has a satisfactory record of performance, is qualified legally to contract with the State, and has supplied all necessary information in connection with an inquiry concerning responsibility. The State can require prospective contractors to demonstrate they have the necessary financing, equipment, facilities, expertise, and personnel.

The State has provided even further clarification of the certification requirement in Amendment 10 (copy attached). It is not the intent of the State to restrict anyone from responding; quite the opposite. The State's posture throughout the solicitation process has been predicated on fostering fair competition. The State cannot therefore grant your request to pre-qualify certain Offerors without having seen their proposals. All proposals must be subject to the same evaluation process set forth in the RFP.

In conclusion, I do not find any reasonable basis for sustaining your protest. You have ten days after receipt of this decision to file an appeal with the Commissioner of Administration in accordance with AS 36.30.590(a).

Sincerely,



David Bohna, Procurement Officer  
State of Alaska, Department of Administration  
333 Willoughby Avenue, 10th floor  
Juneau, Alaska 99811