



Calyptus Consulting Group Inc.  
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September 11, 2017

ATTN: Marty Garrity  
Director  
Bureau of Legislative Research  
500 Woodlane Street  
State Capital Building  
Room 315  
Little Rock, Arkansas 72201

**RE: Protest of Non-Responsive Determination– RFP #BLR 170003**

Dear Mr. Garrity:

Per Section 1.14 of the above-referenced RFP, captioned "Appeals", Calyptus Consulting Group, Inc. ("Calyptus") formally protests the decision to consider our submitted proposal to be non-responsive, which currently precludes our ability to provide an oral presentation and be considered for award. This protest is founded on a thorough review of the RFP documents, the Federal Acquisition Regulation (FAR), and Arkansas Procurement Code as they relate to our submission. Arguments related to each are provided in turn.

Given the various sources of inconsistencies in the RFP documents as well as State and Federal procurement standard practices, **Calyptus requests that you review the decision to consider our proposal non-responsive and allow our proposal to be formally reviewed for this project, or in the alternative, that we be allowed to re-submit the proposal after an opportunity to cure any clerical or technical deficiencies identified.**

On information and belief, Calyptus submitted the lowest bid of those received in response to this RFP, thus we believe we presented the best value bid. Calyptus is uniquely familiar with the State of Arkansas procurement challenges and has several decades of procurement expertise that make us well suited to providing the dedicated support the Review Subcommittee of the Arkansas Legislative Council will require for this project. By declaring our proposal non-responsive, the BLR and the State are not able to review our significant and unique capabilities while saving money for the taxpayers of the State of Arkansas. We are aware that at least one other bidder was also deemed non-responsive for the same reasons, further pointing out confusion and ambiguities in the RFP documents and requirements. Our protest is based upon the contents of our cover letter, Calyptus' bid meeting all RFP requirements, ambiguities in the RFP, Arkansas Law, Federal acquisition standards, and common procurement practices.



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1. Cover Letter Served the purpose of a signed OPPS

The RFP was confusing as was evidenced by two rounds of clarification.<sup>1</sup> We ultimately were able to submit all components of our proposal, including the OPPS. A cover letter was submitted as a commitment to the proposal content and was signed by an authorized agent of the firm to the proposal, including a commitment to the content of the OPPS. This cover letter has been extracted from the RFP and attached as prima facie evidence of signatory commitment to the documents referenced in the letter (**Attachment 1**).

We assert that this letter substitutes for the signature on the OPPS, as the requirements for signature were inconsistently noted.

Cover letters were also provided with each shipment box and the sealed OPPS envelope noting the shipment contents and commitment to all documents contained therein.

2. Calyptus met all the requirements of the RFP

Calyptus met all criteria that could be rationale for rejecting our proposal as per Section 1.3 of the RFP:

1. Failure of the Vendor to submit his or her proposal(s) on or before the deadline established by the issuing office; **Delivered via FedEx 08/17/17 at 8:36AM**
2. Failure of the Vendor to respond to a requirement for oral/written clarification, presentation, or demonstration; **Responded to each numbered paragraph of the RFP**
3. Failure to supply Vendor references; **4 references provided (proposal page 83)**
4. Failure to sign an Official RFP Document; **Signed RFP Cover Page (1-2) incorporated, and all forms required by the RFP with area for signature were signed accordingly.**
5. Failure to complete the Official Proposal Price Sheet(s) and include them sealed separately from the rest of the proposal; **OPPS completed and submitted in a separately sealed envelope; cover letter commits the firm to the contents of the proposal packages submitted**
6. Any wording by the Vendor in their response to the RFP, or in subsequent correspondence, which conflicts with or takes exception to a requirement in the RFP; or **We have taken no exception to any requirements**
7. Failure of any proposed services to meet or exceed the specifications. **We believe our service exceed the specifications and meet all needs of the Bureau of Legislative Research**

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<sup>1</sup> See email RE: Questions – RFP #BLR-170003 08/02/17 and 08/09/17



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3. **The RFP was inconsistent, confusing, and ambiguous on the need for an additional OPPS signature and the ability to amend the RFP documents**

In addition to submission requirement inconsistencies, the RFP contains discrepancies regarding the OPPS. Although bullet point four of Section 1.3 notes that both proposal and OPPS should be signed, this is not considered grounds for proposal rejection below. Furthermore, Section 1.8 Sealed Prices/Cost makes no mention of the signature requirement. Lastly, Section 1.5 Alteration of Original RFP Documents precludes the ability to alter the OPPS to allow for signature. Specifically, Section 1.5 reads:

"The original written or electronic language of the RFP shall not be changed or altered except by approved written addendum issued by the Bureau of Legislative Research. This does not eliminate a Vendor from taking exception(s) to these documents, but it does clarify that the Vendor cannot change the original document's written or electronic language. If the Vendor wishes to make exception(s) to any of the original language, it must be submitted by the Vendor in separate written or electronic language in a manner that clearly explains the exception(s). If Vendor's submittal is discovered to contain alterations/changes to the original written or electronic documents, the Vendor's response may be declared non-responsive, and the response shall not be considered".

We assert that this precluded us for signing the OPPS where there is no signature block or area noted.

4. **The Arkansas Procurement Code of 1987 does not address to submit all forms**

The Arkansas Code of 1987, Annotated Title 19 does not cover the need to complete all forms without areas for signature.

5. **Federal Acquisition Regulation Allows for a Cover Letter committing to all terms of the RFP as an alternate method of indicating a commitment to the bid submitted**

According to a significant body of knowledge and common practices, we are able to submit alternate bid forms or letter to submit the bid as long as we accept all the terms of the invitation (which we did) and we did not request any deviations or exemptions of the RFP.

See Section 14.301 (c) (2) of the FAR below:

**14.301 -- Responsiveness of Bids.**

(a) To be considered for award, a bid must comply in all material respects with the invitation for bids. Such compliance enables bidders to stand on an equal footing and maintain the integrity of the sealed bidding system.

(b) Facsimile bids shall not be considered unless permitted by the solicitation (see 14.202-7).



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(c) Bids should be filled out, executed, and submitted in accordance with the instructions in the invitation. If a bidder uses its own bid form or a letter to submit a bid, the bid may be considered only if -

(1) The bidder accepts all the terms and conditions of the invitation; and

(2) Award on the bid would result in a binding contract with terms and conditions that do not vary from the terms and conditions of the invitation.

(d) Bids submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation.

The FAR has a significant body of knowledge and case law (BCA/ASBCA) pertaining to this topic.

6. Industry practice for signing forms

For contracts and RFPs, the normal and industry-wide standard is to have a signature block. All of the other documents that required a signature in the RFP had a signature block on the appropriate page. This is also included in the body of knowledge for both public and private sector procurement.

Action Requested

Considering the multiple RFP irregularities, ambiguities and inconsistencies in rendering our proposal non-responsive, on the relevant Federal and State laws and regulations, including the State of Arkansas, as well as the fact that the Calyptus bid presented the best value, the Subcommittee should pause the oral presentation segment of the RFP process, and allow for a careful review of our submission.

As our initial review of the procurement code illustrated (page 12 of our proposal), the Subcommittee has a substantial and highly important task in the coming months. We believe that our company and staff expertise are unmatched to this effort and know that we presented the best value overall. Please grant this request for consideration of our submission.

Sincerely,

Dr. George L. Harris  
President  
Calyptus Consulting Group, Inc.

## Attachment 1: Original Proposal Cover Letter

The original cover letter has been extracted from the submitted proposal and is presented on the following pages.



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August 18, 2017

Bureau of Legislative Research Director's Office  
500 Woodlane Street  
State Capital Building  
Room 315  
Little Rock, Arkansas 72201

**Re: Submission for Procurement Process Consulting Services RFP #BLR-170003**

Dear Jillian Thayer,

Calyptus Consulting Group, Inc. is pleased to submit our complete technical proposal for Procurement Process Consulting Services, in response to the request for proposals #BLR-170003. Calyptus has over 25 years of experience providing service identical to those required by the State of Arkansas and has worked with several states to improve their procurement legislation and processes in line with their goals and best practices.

Calyptus has developed review processes and tools that have supported federal, state, county, and city-level reviews. We also have expert procurement and legal staff available to efficiently review and address gaps to both the legislation and the processes. A comprehensive review will require gathering data and mapping several areas, including statutes, ordinances, policies, and procedures, business processes, operations improvement and efficiency, customer service, organization and staff, and information technology.

Calyptus proposes addressing all three activities listed in the RFP with focus on several key areas of interest – statutes, ordinance, policies, and procedures; a business process review; an operations and efficiency review; a customer service review; and an organization and staff assessment. The studies and consequent analyses and evaluations that define their impact on the procurement processes will assist in devising recommendations. All recommendations for legislative change will directly relate to these studies.

The staff proposed for this project all have procurement and logistics backgrounds essential to address the multi-faceted study proposed. I, Dr. George Harris will act as the project manager through my position as Calyptus' President. I will be directly supported by three analysts – Philippa Drew, Francisco Morales, and Matthew Bussey. All resumes and qualifications are included in the proposal in Section 5.5 Vendor's Qualifications.



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As requested in the RFP and requirement list, this technical proposal includes a response to each numbered paragraph in order. The Official Proposal Price Sheet is enclosed in a separate package. Technical aspects of the proposal can be found in the following specific sections:

- 2.0 Procurement Study Overview
- 2.1 Objectives
- 3.0 Scope of Work/Specifications
- 5.1 Vendor Profile
- 5.4 Executive Summary
- 5.5 Vendor's Qualifications

As per the requirements list the technical submission also includes:

- The complete signed pages 1 & 2 of the RFP at the start of the document
- The Calyptus Equal Employment Opportunity Policy as defined in the employee handbook
- The Illegal Immigration Certification
- Completed and signed disclosure forms

As Calyptus' President, I will be the authorized individual to sign the proposal and to negotiate on Calyptus' behalf. Please do not hesitate to let me know if there is any documentation or clarification that you need to assist your evaluation.

Sincerely,

Dr. George Harris  
President  
Calyptus Consulting Group, Inc.

