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VIA HAND-DELIVERY & VIA EMAIL: [Tara.Ronimous@dor.mo.gov](mailto:Tara.Ronimous@dor.mo.gov)

Tara Ronimous  
Department of Revenue, Administration Division  
301 West High Street, Room 218  
PO Box 87  
Jefferson City, MO 65105

RE: Protest of Contract Award for Operation of North Kansas City License Office, RFPSDOR230041

Protesting Party: LO Management LLC  
2024 Crimson Meadows Drive  
O'Fallon, MO 63366

Point of Contact: David Koester  
(573) 470-9800

Attorney: Stephanie S. Bell  
Ellinger Bell LLC  
308 East High Street, Suite 300  
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Dear Ms. Ronimous:

LO Management LLC ("LO") protests the re-award of the contract for RFPSDOR230041 (the "RFP") to Bella Risk WS, LLC ("Bella Risk") pursuant to 1 CSR 40-1.050(12), Special Delegation of Authority 537 (SDA537).

The Department of Revenue (“DOR”) erroneously canceled the award to LO management and on September 12, 2023, re-awarded the contract to Bella Risk. Exhibit G. LO Management won the initial bid by 5.5 points. *See* Exhibits A-C. DOR determined that Bella Risk was entitled to six additional points relating to missing inventory control, making it the alleged winning bidder by just half a point. *See* Exhibits F, H. This re-award was unlawful, arbitrary, and capricious, as described below and should be reversed. The award was properly made to LO Management originally and should be returned to LO Management.

**RELEVANT FACTS**

**Timeline**

On March 22, 2023, the North Kansas City License Office was awarded to LO Management, LLC. Exhibit A. LO Management scored 5.5 points higher than the next highest bidder, Bella Risk WS, LLC. *Id.* On March 29, 2023, Bella Risk WS, LLC filed a Protest. Exhibit D. On April 14, 2023, LO responded to the Bella Risk Protest. Exhibit E. On September 8, 2023, DOR responded to the protest, finding Bella Risk was entitled to an additional 6 points, making it the highest bidder by half a point. Exhibit F. DOR indicated its intent to cancel the award to LO Management and re-award the contract to Bella Risk. *Id.* On September 12, 2023, DOR awarded the contract to Bella Risk. Exhibit G.

**Bella Risk Proposal vs. DOR Protest Response**

Bella Risk was required to list its Contract License Office Manager (CLOM) “Prior License Office Experience on B-6A of its proposal. Bella Risk submitted the following:

Contract License Office Manager Name Brittany Plant	Title Manager
Email Address brittanyplant@gmail.com	Phone Number 816.762.4440

**B-6A Contract License Office Manager - Prior License Office Experience**

Complete the following information regarding prior license office experience for the Contract License Office Manager named above.

Position Start Date	Position End Date	Position Title <small>(DL/MV Clerk, Assist. Manager, Contract Manager, Office Manager, Officer)</small>	User ID (DG/DF #)	License Office
8/12/19	Current	Office Manager	DG1073	Gladstone

Exhibit C, p. 5. The Department, in re-awarding the the Contract to Bella Risk, stated:

... reason. Bella’s proposal listed Ms. Plant as the Office Manager for Liberty License Office between August 31, 2021 and January 25, 2023. Department records indicate Liberty License Office had inventory charges in the amount of \$47.25 on February 8, 2023 from an assessment

However, upon secondary review of Department records, it was discovered Ms. Plant actually started her position as Office Manager for Liberty License Office on February 16, 2022, not August 31, 2021. The \$93.25 of inventory charges were actually assessed to the prior contractor,

Exhibit F, pp. 2-3. Bella Risk's proposal makes no mention of the Liberty License Office or the date August 31, 2021. Exhibit C.

Still, the Department concluded "\$93.25 of inventory charges" (from February and December 2022) should have been assessed to the prior contractor, rather than Ms. Plant, and therefore, Bella Risk was entitled to six additional points. Exhibit F, p. 3.

### **Substantive Questions Remain Unanswered**

The difference between what was submitted by Bella Risk and how the Bella Risk submission was characterized in DOR's protest response raises a number of questions:

Where did DOR learn of the August 31, 2021 date?

What is the significance of the August 12, 2019 date in Bella Risk's proposal?

Where did DOR learn that Ms. Plant was at the Liberty Office?

Why does Bella Risk's proposal state she was at the Gladstone Office?

Of course these questions should have been answered when Bella Risk submitted its proposal and truly and accurately represented Ms. Plant's experience as required. If what Bella Risk submitted did not accurately describe their proposal, it was free to modify its proposal prior to the deadline (but not after). *See* RFP, 5I. The buyer is allowed to correct clerical errors (RFP, 8(a)), but these are more than mere clerical errors. In any event, 1 CSR 40-1.050(12)(E) required Bella Risk to provide any "supporting exhibits, evidence, or documents to substantiate claim" in its protest. It provided no exhibits, evidence, or documents to substantiate its claims, more specifically, it provided nothing that would substantiate that Plant started a position at Liberty in February of 2022. *See* Exhibit D.

### **Point I: The Department cannot overturn an award *sua sponte* on grounds not raised in the Protest**

Bella Risk's protest did make claims regarding inventory control points – generally claiming that "inventory scoring for Bella Risk WS, LLC was incorrect." Exhibit D, pp. 2-3. However, Bella Risk never claimed that they had falsely stated Plant's start date on B-6A such that some (or all) of the inventory charges should not be levied against her. *Id.* Instead, Bella Risk made four arguments:

- (1) The previously missing inventory has now been accounted for (3.1)
- (2) Annual vs. Semi-Annual Inventory created inconsistencies between offices (3.2)
- (3) Payment dates were "at least a year past the actual loss/charge date" (3.3)
- (4) Inconsistencies between billing of charges/credits to individual's long/short (3.4)

Exhibit D, pp. 2-3. Missouri procurement rules provide: “The director or designee will only issue a determination on the issues asserted in the protest.” 1 CSR 40-1.050(12)(E). Unlike the Court of Appeals, which can affirm an appeal on any grounds, the DOR cannot reverse an award on any grounds. It must only consider those arguments asserted in the protest. *Tri-Cnty. Counseling Servs., Inc. v. Off. of Admin.*, 595 S.W.3d 555, 568 (Mo. App. W.D. 2020) (“1 CSR § 40-1.050(9) expressly limits the scope of the State's disposition of a protest brought under the rule: “The director or designee will only issue a determination on the issues asserted in the protest.””).

Here, even if the dates and locations in DOR’s response are true, because the argument was not raised by Bella Risk in its protest, the re-award is arbitrary, capricious, and unlawful.

**Point II: If DOR accepts as true that Brittany Plant started her position as Office Manager on February 16, 2022, then she was still responsible for the missing December Inventory, which would only increase Bella Risk’s score by 3 (not enough to win)**

According to DOR’s protest response, the following timeline is accurate:

**Timeline**

February 10, 2022 – (Missing Inventory Occurred), \$46.00

April 16, 2022 – (Bella Risk Charged for Missing Inventory), \$46.00

February 16, 2022 – Brittany Plant becomes Office Manager

December 2022 – ((Missing Inventory Occurred), \$47.25

February 8, 2023 – (Bella Risk Charged for Missing Inventory), \$47.25

*See* Exhibit F. DOR claims that neither the \$46.00 nor the \$47.25 of the missing inventory should be charged to Ms. Plant (Exhibit F), but based on the facts in its own letter, she was the Office Manager when the December 2022 inventory went missing. Based on DOR’s error, it determined Bella Risk was entitled to the full eight points for \$0 of missing inventory (six more points that it received in the initial evaluation). Exhibit F.

Again, based on its on facts, DOR should have concluded that the \$47.25 was still attributable to Plant. A CLOM with \$0-50 missing inventory is only entitled to 5 points (three more than Bella Risk was originally awarded). *See* Exhibit 1, p. 113 (Attachment 6). Three points is not enough to reverse the award to LO Management, which won the initial bid by 5.5 points. Furthermore, none of the other grounds raised by Bella Risk were meritorious (LO incorporates by reference its original protest response, attached hereto as Exhibit E). The re-award to Bella Risk was unlawful, based on DOR’s own facts and the scoring criteria in the RFP. The contract should be awarded to LO Management as the highest scoring proposal.

**Point III: If DOR accepts as true that Brittany Plant started her position as Office Manager on February 16, 2022 (and not August 31, 2021), then Bella Risk loses at least ten additional points in Section A**

Bella Risk was required to state all “prior license office experience” for Brittany Plant in Section B-6A (Exhibit C, p. 5). Bella Risk indicated she served as the “Office Manager in Gladstone” from August 12, 2019 to the present (January 24, 2023). *Id.*

DOR now claims in its protest response Ms. Plant was the “Office Manager” for “Liberty License Office” from February 16, 2022 to the present (January 24, 2023) (Exhibit F) – importantly, Plant’s experience now equates to less than one year.

If Brittany Plant started her position as Office Manager on February 16, 2022, as the DOR claims, then Bella Risk loses at least ten points from “Contract License Office Manager Training” Exhibit A, p. 110 (Section A Personnel Retention, A-3). Bella Risk was awarded 25 points for submitting a CLOM with “1 or more years of experience as a manager.” Bella Risk would no longer qualify at the 25-point level given that Ms. Plant’s position did not begin until February 16, 2022, less than one year from January 24, 2023. The best Bella Risk could score on that question would be 15 points – a reduction of 10 points from its original proposal and score – making Bella Risk’s proposal insufficient to be awarded the contract. The re-award to Bella Risk was unlawful, based on DOR’s own facts and the scoring criteria in the RFP.

**Point IV: Verification of LO Office Manager's Missing Inventory**

From the protest response, it is clear that the DOR only verified the charge dates for Bella Risk’s inventory charges. It was required to apply the same process to all bidders, including LO Management. There is no evidence that DOR verified that LO was not charged for inventory attributable to another contractor, as it claims happened to Bella Risk.

The courts have previously found error when the buyer singles out one vendor and uses disparate approaches for different vendors. *See LO Mgmt., LLC v. Off. of Admin.*, 658 S.W.3d 228, 240 (Mo. App. W.D. 2022) (contacts with one bidder on an issue without contacting the other bidder was arbitrary and capricious and resulted in the award being void). Here, LO received 0 points under Section B-6B(1), for the response that the total amount of assessed charges for missing inventory in the last two years was equal to or greater than \$100. *See Exhibit A*, p. 135. DOR must apply the same process to verify that point award as it did to verify the points to Bella Risk. DOR’s failure to apply the same process to all bidders renders is arbitrary, capricious, and unlawful and renders the re-award void.

**Point V: Changes to the RFP**

Since the issuance of this RFP, DOR has revised its standard RFP – due, in part, to the way missing inventory was being evaluated. Among other changes, inventory control experience scoring was changed to use the vendor’s overall experience instead of the office manager’s experience. Prior to re-awarding the contract to Bella Risk, DOR had already determined this version of the RFP is so problematic that it has changed all RFPs going forward. Why then would they not use the new RFP in evaluating North Kansas City? In the event DOR denies Point I – IV of this protest, DOR should rebid this contract altogether based on its own determination, the RFP is fatally flawed. The appropriate remedy when faced with a fatally flawed RFP is not to re-award under the flawed RFP, but to rebid under the new RFP.

**Point VI: Misrepresentation of Office Manager's Experience by Bella Risk**

Bella Risk should not be awarded the contract because Bella Risk has demonstrated cause for suspension by providing false information on its application.

Based on DOR’s protest response, there is cause to believe that Bella Risk made multiple false statements on B-6A of its submission – certainly DOR has found that the “Position Start Date” was false but potentially the “Position End Date” and “License Office” were falsely stated as well.

Missouri procurement rules provide:

The following shall be sufficient cause for suspension or debarment. The list is not meant to be all inclusive but shall serve as a guideline for vendor discipline and business ethics—  
... (C) Providing false or misleading information on an application, in a bid/proposal, or in correspondence to the division or a state agency;

1 CSR 40-1.060(8). Bella Risk’s proposal should be disqualified on these grounds alone.

**Conclusion**

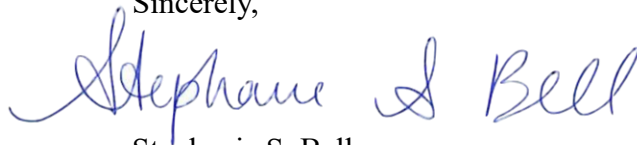
For all of the reasons discussed herein, DOR’s re-award of the contract to Bella Risk was arbitrary, capricious, and unlawful. DOR cannot sustain a protest on grounds not raised in the protest and therefore the contract must be re-awarded to LO Management. Based on its own protest response, Bella Risk was only entitled to an additional three points, insufficient to cancel the award to LO Management, as such DOR must re-award the contract to LO Management. Furthermore, if additional points are added to Bella Risk’s proposal, then a corresponding reduction in points to that proposal must also be undertaken resulting in LO Management’s proposal being the highest scoring proposal.

LO Management requests that the award of the contract to Bella Risk WS, LLC be rescinded and awarded to the lowest and best bidder, LO Management LLC.

September 22, 2023

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Sincerely,



Stephanie S. Bell

Attorney at Law

List of Attached Exhibits:

**Exhibit A – (Original) RFP & Evaluation Summary**

**Exhibit B – LO Management Proposal (January 23, 2023)**

**Exhibit C – Bella Risk Proposal (January 24, 2023)**

**Exhibit D – Bella Risk Protest (March 29, 2023)**

**Exhibit E – LO Protest Response (April 14, 2023)**

**Exhibit F – DOR Response to Bella Risk Protest (September 8, 2023)**

**Exhibit G – Re-Award to Bella Risk (September 12, 2023)**

**Exhibit H – (Revised) RFP & Evaluation Summary**