



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR  
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*Acting Director*

June 1, 2017

Via Electronic Mail [[aturner@insconsultants.org](mailto:aturner@insconsultants.org)] and USPS Regular Mail

Amy L. Turner  
The INS Companies  
419 S. 2<sup>nd</sup> Street  
New Market, Suite 206  
Philadelphia, PA 19147

Re: Protest of Notice of Proposal Rejection  
Solicitation #17DPP00107: T3066 Actuarial Services

Dear Ms. Turner:

This letter is in response to your email of May 22, 2017, on behalf of The INS Companies (hereinafter "INS") which was received by the Hearing Unit of the Division of Purchase and Property (hereinafter "Division"). In that correspondence, INS protests the Notice of Proposal Rejection issued by the Division's Proposal Review Unit for Solicitation #17DPP00107: T3066 Actuarial Services: Contract Actuarial Consulting Firms – DOBI and Statewide. The record of this procurement reveals that INS' Quote {Proposal} (hereinafter "Proposal") was rejected because INS did not submit the *Ownership Disclosure Form, Offer and Acceptance Page* or pricing information with its proposal submission.

In consideration of INS' protest, I have reviewed the record of this procurement, including the Bid Solicitation {Request for Proposal} (hereinafter "RFP"), INS' Proposal, the relevant statutes, regulations, and case law. This review of the record has provided me with the information necessary to determine the facts of this matter and to render an informed Final Agency Decision on the merits of the protest. I set forth herein the Division's Final Agency Decision.

By way of background, on March 23, 2017, the Division's Procurement Bureau (hereinafter "Bureau") issued the above referenced RFP on behalf of the Department of Banking and Insurance (DOBI), State agencies and State Cooperative purchasing partners, to solicit Proposals from consulting firms with actuarial expertise to provide various types of reviews and evaluations, including but not limited to life insurance, annuity, health care, liquidity risk, hedging practices, pricing risk, and experience studies. RFP § 1.1 *Purpose and Intent*. The intent of the RFP is to award multiple Master Blanket Purchase Orders (Blanket P.O.s) {Contracts} (hereinafter "Contracts") to those Vendors {Bidders} (hereinafter "Bidders") who submit Proposals conforming to this RFP and are most advantageous to the State, price and other factors considered. Ibid.

On May 16, 2017, the Proposal Review Unit opened the Proposals received by the submission deadline of 2:00 p.m. After conducting an initial review of the Proposals submitted, the Proposal Review Unit found that INS' Proposal did not include the *Ownership Disclosure Form, Offer and Acceptance Page* or pricing information. Accordingly, the Proposal Review Unit issued a Notice of Proposal Rejection.

On May 22, 2015, INS wrote to the Division stating:

We received the attached rejection notice with regard to our bid on the above-mentioned RFP. However, upon checking our submission, all forms were included with Volume I, as stated in the RFP and uploaded to NJStart. In addition, our pricing information was included in Volume III as required by the RFP. These items were marked as not present with our bid, but they were included in the volumes as requested. Please advise.

Pursuant to the Division's governing regulations, a Proposal must "[c]ontain all RFP-required certifications, forms, and attachments, completed and signed as required" or "be subject to automatic rejection." N.J.A.C. 17:12-2.2. To assist Bidders in preparing and submitting a Proposal, the RFP advises Bidders to visit the [NJSTART Vendor Support Page](#) and to utilize the available Quick Reference Guides. Specifically, RFP § 1.33 [NJSTART](#) states in pertinent part:

Vendors {Bidders} are strongly encouraged to visit the [NJSTART Vendor Support Page](#), which contains Quick Reference Guides (QRGs), supporting videos, a glossary of [NJSTART](#) terms, and helpdesk contact information.

The Vendor {Bidder} should utilize the QRGs before attempting to submit its Quote {Proposal} using the [NJSTART](#) process. It is the Vendor's {Bidder's} responsibility to ensure that the [NJSTART](#) Quote {Proposal} and attachments have been properly submitted.

In reviewing the record of this procurement, the Hearing Unit found that INS created three (3) Quotes in response to the subject solicitation which are as follows:

Quote 00000842 – INS Consultants Inc. (Status: In Progress, no attachments)

**NJ START**

Quote 00000842 - INS Consultants Inc.

Quote #: 00000842 Bid #: 1102000197 Status: **in progress**

Organization: Division of Purchase and Property Description: 2006 Actibus Service Contract Additional Contracting Terms: COB and Retention Delivery Days: 0 Discount Percent: 0.0

Bid Flag: 100 Alternate Bid: 100 Shipping Terms: Freight Terms: Ship Via Terms: Payment Term: Promised Date: Info Contact: Quote Total: \$6.00

Comment: Date Last Updated: 04/24/2017 11:18:27 AM User last Updated: Chesire Haggerty User Created: Chesire Haggerty

Print format: Quote

Vendor accepts the terms & conditions with no exceptions.

Bid Acknowledgements:

Document	Amendment Info	Notifications	Acknowledged Date/Time
Amendment 1	Bid Amendment #1 050517 Responses to Electronic Question and Answer and Additions, Corrections, Clarifications and Markups to the Bid Solicitation RFP Attachment Fee Charges Header 1 Fee: CA Bid Amendment 17006 050517.docx Fee: CA Bid Amendment 17006 050517.docx added 2 Fee: Revised RFP 17006 Actibus 210717.docx Fee: Revised RFP 17006 Actibus 050517.docx added	Sent to chaggerty@insconsultants.org at 05/05/2017 03:30:54 PM	

Agency Files:  
 Agency Forms:  
 Vendor Files:

Quote 00000949 – INS Consultants Inc. (Status: In Progress, 4 attachments)

**NJ START**

Quote 00000949 - INS Consultants Inc.

Quote #: 00000949 Bid #: 1102000197 Status: **in progress**

Organization: Division of Purchase and Property Description: 2006 Actibus Service Contract Additional Contracting Terms: COB and Retention Delivery Days: 0 Discount Percent: 0.0

Bid Flag: 100 Alternate Bid: 100 Shipping Terms: Freight Terms: Ship Via Terms: Payment Term: Promised Date: Info Contact: Quote Total: \$12.00

Comment: Date Last Updated: 05/12/2017 11:05:44 AM User last Updated: Chesire Haggerty User Created: Chesire Haggerty

Print format: Quote

Vendor accepts the terms & conditions with no exceptions.

Bid Acknowledgements:

Document	Amendment Info	Notifications	Acknowledged Date/Time
Amendment 1	Bid Amendment #1 050517 Responses to Electronic Question and Answer and Additions, Corrections, Clarifications and Markups to the Bid Solicitation RFP Attachment Fee Charges Header 1 Fee: CA Bid Amendment 17006 050517.docx Fee: CA Bid Amendment 17006 050517.docx added 2 Fee: Revised RFP 17006 Actibus 210717.docx Fee: Revised RFP 17006 Actibus 050517.docx added	Sent to chaggerty@insconsultants.org at 05/05/2017 03:30:54 PM	

Agency Files:  
 Agency Forms:  
 Vendor Files:

Quote 00000950 – INS Consultants Inc. (Status: Submitted, no attachments)

The screenshot displays the NJSTART system interface for a quote. The quote ID is 00000950, and the organization is INS Consultants Inc. The quote is for 'Division of Purchase and Property' with a description of '7306A Account Service, Contract Account Consulting Firm, COB and Support'. The status is 'Submitted'. The interface includes a navigation menu, a quote details table, and a list of attachments. The attachments list is empty, indicating no attachments were submitted.

Quote #:	00000950	Bid #:	110229192	Status:	Submitted
Organization:	Division of Purchase and Property	Delivery Days:	0	Discount Percent:	0.0
Description:	7306A Account Service, Contract Account Consulting Firm, COB and Support	Alternate Bid:	no	Shipping Terms:	
Bid Flag:	yes	Ship Via Terms:		Payment Term:	
Freight Terms:		Info Contact:		Quote Total:	\$0.00
Promised Date:		User last Updated:	Online Property	User Created:	Online Property
Comment:					
Date Last Updated:	05/12/2011 11:12:59 AM				
Print format:	Quote				
Vendor accepts the terms & conditions with no exceptions.					
Bid Acknowledgments:					
Document	Attachment Name			Substatus	Acknowledged Date/Time
Attachment	Bid Acknowledgment of 00000950 - 7306A Account Service, Contract Account Consulting Firm, COB and Support			Set Up	05/12/2011 11:12:59 AM
Attachments:					
Agency Files:					
Agency Forms:					
Vendor Files:					

Only one of the Quotes was submitted. That Proposal (Quote 00000950) however, did not include any attachments.<sup>1</sup>

The *NJSTART* system does not prevent a Bidder from submitting a Proposal without all of the required forms and documents attached as mandated by the specifications. The responsibility for the contents of the Proposal, forms, or other submittals necessarily and appropriately rests solely with the Bidder. RFP § 1.4.2 *Vendor {Bidder} Responsibility*. Here, unfortunately, INS submitted a Proposal (Quote 00000950) without required forms or documents being attached. The Bureau cannot utilize documents attached to an un-submitted Quote when reviewing proposals for evaluation as only the submitted Quote documents become part of the procurement record as “provided” by the Bidder for the Bureau’s consideration and evaluation.

Furthermore, the *Ownership Disclosure Form* is a statutorily required document that must be submitted with the Bidder’s proposal. The New Jersey Legislature, in implementing N.J.S.A. 52:25-24.2, mandated the requirements that a bidder must comply with in order to enter into a contract with the State. N.J.S.A. 52:25-24.2 states in pertinent part:

No corporation, partnership, or limited liability company shall be awarded any contract nor shall any agreement be entered into for the performance of any work or the furnishing of any materials or supplies, the cost of which is to be paid with or out of any public funds, by the State, or any county, municipality or school district, or any subsidiary or agency of the State, or of any county, municipality or school district, or by any authority, board, or commission which exercises governmental functions, unless prior to the receipt of the bid or accompanying the bid, of said corporation, said partnership, or said limited liability company there is submitted a statement setting forth the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of

<sup>1</sup> Quote 00000949 did have attachments; however, that Quote was not submitted as noted by the “In Progress” notation in the *NJSTART* status filed for Quote 00000949.

all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. If one or more such stockholder or partner or member is itself a corporation or partnership or limited liability company, the stockholders holding 10 percent or more of that corporation's stock, or the individual partners owning 10 percent or greater interest in that partnership, or the members owning 10 percent or greater interest in that limited liability company, as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member, exceeding the 10 percent ownership criteria established in this act, has been listed.

Moreover, the *Ownership Disclosure Form* is specifically addressed in RFP Section 4.4.1.2.1 *Ownership Disclosure Form* which states:

Pursuant to N.J.S.A. 52:25-24.2, in the event the Vendor {Bidder} is a corporation, limited liability company, or partnership, the Vendor {Bidder} must complete an Ownership Disclosure Form.

A current completed Ownership Disclosure Form must be received prior to or accompany the submitted Quote {Proposal}. A Vendor's {Bidder's} failure to submit the completed and signed form with its Quote {Proposal} will result in the rejection of the Quote {Proposal} as non-responsive and preclude the award of a Blanket P.O. {Contract} to said Vendor {Bidder} unless the Division has on file a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the Quote {Proposal} submission deadline for this procurement. If any ownership change has occurred within the last six (6) months, a new Ownership Disclosure Form must be completed, signed and submitted with the Quote {Proposal}.

Vendors {Bidders} using [NJSTART](#) to submit a Quote {Proposal} shall make the appropriate certification on the "Maintain Terms and Categories" Tab within its profile by checking the applicable box and, if required, completing and attaching the shortened Ownership Disclosure Form. Vendors {Bidders} not using [NJSTART](#) to submit a Quote {Proposal} must complete the full Ownership Disclosure Form located on the [Division's website](#). This form is also available in [NJSTART \(www.njstart.gov\)](#).

Vendors {Bidders} may refer to the QRGs "Vendor Forms" and "Attaching Files" for instructions on submitting the forms required by this section of the Bid Solicitation {RFP} through [NJSTART](#). Vendors {Bidders} may also refer to the QRG "Vendor Categories and Certifications" for additional instructions on completing shortened versions of required forms by completing certifications on the "Maintain Terms and Categories" Tab within its profile in [NJSTART](#). QRGs are located on the [NJSTART Vendor Support Page](#).



Vendors {Bidders} utilizing **NJSTART** should designate one (1) version of the Ownership Disclosure Form as the Primary Form. In the event that a Vendor {Bidder} fails to attach an Ownership Disclosure Form, or the attached Ownership Disclosure Form is deemed deficient, the Division may access the Primary Form and consider it as part of the Quote {Proposal}. Note: The Primary Form must have a Date Created within six (6) months of the Quote {Proposal} submission deadline to be considered valid.

In reviewing proposals submitted in response to an RFP, the Division does not have the power to waive the legislative requirement that a Bidder provide its ownership information prior to or accompanying the Proposal submission. N.J.S.A. 52:25-24.2. Only the New Jersey Legislature can change a requirement it has mandated. Accordingly, in order to make this process of complying with the legislative requirement easier, the Division provides to the bidding community an *Ownership Disclosure Form* to be completed and submitted with the proposal.

In this case, the record indicates that INS did not submit the *Ownership Disclosure Form* with the proposal nor was a signed form contained within INS' **NJSTART** Vendor Profile. As noted above, Vendors {Bidders} using **NJSTART** to submit a Quote {Proposal} shall make the appropriate certification on the "Maintain Terms and Categories" Tab within its profile by checking the applicable box. The available selections are:

- The bidder is a non-profit entity and is exempt from the ownership disclosure requirement. See Disclosure of Non-Profit Officer and Directors below.
- There are no individuals, partnerships or corporations with a 0% or greater interest in the bidding entity, therefore the bidder is exempt from the ownership disclosure requirement.
- Neither statement is appropriate. A current true and complete Statement of Bidder Ownership on the attached form has been or will be uploaded to the vendor profile prior to the submission deadline and is intended to accompany the bidder's submission.

#### Sample Ownership Disclosure Category Options:

<b>Category: Ownership Disclosure</b>	
<b>Description:</b> N.J.S.A. 52:25-24.2 requires disclosure of the names and addresses of those individuals, partnerships and/or corporations owning a 10% or greater interest in the bidding entity ("interest owners"). Further, if any of these interest owners is itself a partnership or corporation, you must disclose the names and addresses of the interest owners of that partnership or corporation.	
If you select at least one category option:	
<input type="checkbox"/>	(a) The bidder is a non-profit entity and is exempt from the ownership disclosure requirement. See Disclosure of Non-Profit Officers and Directors below.
<input type="checkbox"/>	(b) There are no individuals, partnerships or corporations with a 10% or greater interest in the bidding entity, therefore the bidder is exempt from the ownership disclosure requirement.
<input type="checkbox"/>	(c) Neither statement is appropriate. A current true and complete Statement of Bidder Ownership on the attached form has been or will be uploaded to the vendor profile prior to the submission deadline and is intended to accompany the bidder's submission.
Notes:	

In making its selection for Ownership Disclosure category, as shown below, INS selected the third option:

Vendor Profile - INS Consultants Inc	
Organization Information	Users
Address	Commodity Codes and Services
Regions	<b>Terms &amp; Categories</b>
Attachments	Vendor Performance
<b>Terms and Categories Information</b>	
<b>Terms</b>	
Payment Terms:	
Freight Terms:	
Shipping Method:	
Shipping Terms:	
<b>Categories &amp; Certifications</b>	
...	
<b>Category: Ownership Disclosure</b>	
Description: N.J.S.A. 52:25-24.2 requires disclosure of the names and addresses of those individuals, partnerships and/or corporations owning a 10% or greater interest in the bidding entity ("interest owners"). Further, if any of these interest owners is itself a partnership or corporation, you must disclose the names and addresses of the interest owners of that partnership or corporation.	
Neither statement is applicable. A current, true and complete Statement of Bidder Ownership on the attached form has been or will be uploaded to the vendor profile prior to the submission deadline and is intended to accompany the bidder's submission.	

Based upon the selection, INS was required to submit the *Ownership Disclosure Form* with its proposal or attach the form to its Vendor Profile within **NJSTART**. Unfortunately, neither option was taken by INS.

Notwithstanding INS' interest in competing for this procurement, to allow INS to submit a completed and signed *Ownership Disclosure Form* after bid opening, it would be in violation of the Legislative requirement outlined in N.J.S.A. 52:25-24.2, would un-level the Bidder's playing field and would provide INS with disclamation options not available to other Bidders.

This is an unfortunate situation for the State as the Division encourages competition and appreciates the time and effort put forth in preparing and submitting the Proposal. However, in light of the findings set forth above, I have no choice but to deny your request for eligibility to participate in the competition for the subject contract. This is my final agency decision on this matter.

Thank you for your interest in doing business with the State of New Jersey and for registering your company with **NJSTART** at [www.njstart.gov](http://www.njstart.gov), the State of New Jersey's new eProcurement system.

Sincerely,

  
Maurice A. Griffin  
Acting Director

MAG: RUD

- c: P. Michaels  
L. Spildener  
M. Tagliaferri  
R. Pavia  
A. Nelson  
D. Rodriguez