



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR
33 WEST STATE STREET
P. O. BOX 039
TRENTON, NEW JERSEY 08625-0039

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

ANDREW P. SIDAMON-ERISTOFF
State Treasurer

JIGNASA DESAI-MCCLEARY
Director

Telephone (609) 292-4886 / Facsimile (609) 984-2575

April 30, 2015

Via Facsimile (973-743-6357) and USPS Regular Mail

Magdalena Middleton, Treasurer
Bell's Security Sales, Inc.
426 Bloomfield Avenue
Bloomfield, NJ 07003-4832

RE: Protest of Notice of Proposal Rejection
RFP #15-X-23463 Food/Non-Foods: DOC Canteen/Commissary through DSS (T-1715)

Dear Ms. Middleton:

This letter is in response to your fax and letter dated and received on April 17, 2015, referencing the subject Request for Proposal ("RFP") as posted by the Procurement Bureau ("Bureau"), the unit of the Division of Purchase and Property ("the Division") responsible for conducting open competitive procurements of State of New Jersey ("State") contracts. On behalf of Bell's Security Sales, Inc. ("BSS") you challenge the Notice of Proposal Rejection issued by the Division's Proposal Review Unit because BSS's proposal did contain properly completed and signed *Signatory Page*. You include with your letter of protest a properly completed and signed *Signatory Page* and request that the document be accepted since no pricing is involved in the rejection.

In regard to the issue before me, I have reviewed the record of this procurement, including the RFP, BSS's electronically submitted proposal, with consideration of relevant statutes, regulations, and case law. This review has provided me with the information necessary to determine the facts of this matter and to render an informed determination on the merits of BSS's protest.

The above-referenced solicitation was comprised of the RFP and other documents that outlined the proposal submission process and explained all required documentation. Under RFP Section 4.4.1 *Forms, Registrations and Certifications Required with Proposal*, the RFP required, among other items, a completed and signed *Signatory Page*.

The *Signatory Page* is addressed in the RFP with the relevant text of the RFP subsection reading:


4.4.1.1 SIGNATORY PAGE

The bidder shall complete, including signature of an authorized representative of the bidder, and submit the Signatory Page accompanying this RFP. If the bidder is a limited partnership, the Signatory Page must be signed by a general partner. If the bidder is a joint venture, the Signatory Page must be signed by a principal of each party to the joint venture. Failure to comply will result in rejection of the proposal.

Note: A bidder's written signature on the Signatory Page, or entry of a Personal Identification Number (PIN) if using the eBid system, shall not serve as a certifying signature on the forms comprising the NJ STANDARD RFP FORMS document. (See 4.4.1.2)

[Emphasis added.]

The *Signatory Page* accompanying this RFP was pre-populated by the Bureau with the RFP/Solicitation Number and name, as well as other items, including the estimated value and contract term as follows:

15-X-23463SignatoryPage.pdf - Adobe Reader		
File Edit View Window Help		
Tools FRI & Sign Comment Extended		
Please fill out the following form. You can save data typed into this form.		
	STATE OF NEW JERSEY REQUEST FOR PROPOSAL (RFP)	RFP/Solicitation Number: 15-X-23463
	EOB: FOODS/NON-FOODS: DOC CANTEEN COMMISSARY THROUGH DSS	Term Contract #: T1715 Requesting Agency: PROCUREMENT BUREAU Requisition #: 1041957
	ESTIMATED AMOUNT: \$ 4,500,000.00 CONTRACT EFFECTIVE DATE: May 13, 2015 CONTRACT EXPIRATION DATE: May 12, 2016 COOPERATIVE PURCHASING: NO SET ASIDE: NONE	<u>TO ASK QUESTIONS CONCERNING THE CONTENTS OF THIS RFP:</u> <i>Please go to the Advertised Solicitation Current Bid Opportunities Web Page and click on the Quicklink button labeled Q&A.</i> http://www.state.nj.us/treasury/purchase/bid/summary/15x23463.shtml
PURSUANT TO N.J. STATUTES, REGULATIONS AND EXECUTIVE ORDERS, PROPOSALS WHICH FAIL TO CONFORM WITH THE FOLLOWING REQUIREMENTS WILL BE SUBJECT TO REJECTION:		
1) PROPOSALS MUST BE RECEIVED AT OR BEFORE THE PUBLIC OPENING TIME OF 2:00 PM EASTERN TIME ON April 08, 2015 AT THE FOLLOWING ADDRESS (NOTE: TELEPHONE, EMAIL, TELEFACSIMILE OR TELEGRAPH PROPOSALS WILL NOT BE ACCEPTED): DEPARTMENT OF THE TREASURY PROCUREMENT BUREAU, PO BOX 230 33 WEST STATE STREET - 8TH FLOOR TRENTON, NEW JERSEY 08628-0230		
2) THE BIDDER MUST SIGN THE PROPOSAL		
3) THE PROPOSAL MUST INCLUDE ALL PRICE INFORMATION. PROPOSAL PRICES SHALL INCLUDE DELIVERY OF ALL ITEMS, F.O.B. DESTINATION OR AS OTHERWISE PROVIDED. PRICE QUOTES MUST BE FIRM THROUGH ISSUANCE OF CONTRACT.		
4) ALL PROPOSAL PRICES MUST BE TYPED OR WRITTEN IN INK.		
5) ALL CORRECTIONS, WHITE-OUTS, ERASURES, RESTRICKING OF TYPE, OR OTHER FORMS OF ALTERATION, OR THE APPEARANCE OF ALTERATION, TO UNIT AND/OR TOTAL PRICES MUST BE INITIALED IN INK BY THE BIDDER.		
6) THE BIDDER MUST COMPLETE AND SUBMIT ALL FORMS, CERTIFICATIONS, REGISTRATIONS AND OTHER DOCUMENTS AS REQUIRED IN THE RFP. SEE THE ADVERTISED SOLICITATION, CURRENT BID OPPORTUNITIES WEBSITE http://www.state.nj.us/treasury/purchase/bid/summary/15x23463.shtml		
7) THE BIDDER MUST ATTEND THE MANDATORY PRE-PROPOSAL CONFERENCE(S) AND SITE VISIT(S) AT THE FOLLOWING DATE(S) AND TIME(S):		
8) FOR SET ASIDE CONTRACTS ONLY, A BIDDER MUST BE REGISTERED WITH THE N.J. DIVISION OF REVENUE AS A SMALL BUSINESS BY THE DATE OF PROPOSAL OPENING. (SEE N.J.A.C. 17:13-3.1 & 13.3.2)		
ADDITIONAL REQUIREMENTS		
9) BY SIGNING AND SUBMITTING THIS PROPOSAL, THE BIDDER CERTIFIES AND CONFIRMS THAT NEITHER THE BIDDER, ITS REPRESENTATIVES, AGENTS OR LOBBYISTS HAVE INITIATED ANY INAPPROPRIATE CONTACT WITH ANY EXECUTIVE BRANCH EMPLOYEE DURING THE PROCUREMENT TO ATTEMPT TO AFFECT THE BIDDING PROCESS AND SHALL NOT DO SO AFTER	10) PERFORMANCE SECURITY: \$ N/A OF N/A %	
	11) PAYMENT RETENTION N/A %	
		12) BY SIGNING AND SUBMITTING THIS PROPOSAL, THE BIDDER CONSENTS TO RECEIVE

Furthermore, as a courtesy to all bidders, the Division provided a Proposal Checklist as an accompaniment to the RFP. The Checklist provided the following:

FORMS THAT MUST BE SUBMITTED WITH YOUR PROPOSAL:

- RFP Signatory Page with physical signature or PIN (PIN is for eBid submission ONLY)

....

Pursuant to N.J.A.C. 17:12-2.2,¹ a bidder's proposal must "[c]ontain all RFP-required certifications, forms, and attachments, completed and signed as required" or "be subject to automatic rejection." As set forth in RFP Section 4.0 *Proposal Preparation and Submission*, the submission of a completed and signed *Signatory Page* as part of a bidder's proposal was required.

The record of this procurement reveals that BSS submitted a proposal through the Division's eBid system by the RFP submission deadline of April 8, 2015. However, BSS's electronic proposal included a *Signatory Page* that was not signed by a representative of BSS as required. Additionally, in its April 17, 2015 letter, BSS admits that it sent the *Signatory Page* for Solicitation Number 15-X023426, rather than the *Signatory Page* for RFP 15-X-23463 (Foods/Non-Foods: DOC Canteen/Commissary through DSS). Unfortunately, the eBid system cannot differentiate what documents are uploaded. Rather, it accepts any document the bidder uploads in a required document field. The responsibility for the contents of the proposal or submittal necessarily and appropriately rests solely with the bidder. Thus, BSS's proposal was rightfully and necessarily rejected for submitting a signatory page pertaining to an RFP other than 15-X-23463 for the T1715 Food/Non-Foods: DOC Canteen/Commissary through DSS contract.

BSS also requests that the Division accept the corrected and signed *Signatory Page* submitted with BSS's protest. Notwithstanding BSS's interest in competing for this procurement, it would not be in the State's best interests to allow a bidder who did not provide the required information to be eligible to participate in the procurement process. Such acceptance would unlevel the bidders' playing field, as the State received responsive proposals in which all necessary documents and information were provided as required. The deficiency at issue cannot be remedied after the proposal submission deadline, as acceptance of BSS's proposal under these circumstances would be contrary to the provisions of the governing statute and would provide BSS with disclamation options not available to those bidders whose proposals were fully responsive. In light of the findings set forth above, I must deny your request to accept your corrected and signed, but untimely submitted, *Signatory Page* for eligibility to participate in the competition for the subject contract. This is my final agency decision on this matter.

This is an unfortunate situation for the State, as the Division encourages competition. Thank you for your company's continuing interest in doing business with the State of New Jersey and for registering your business with ~~NESTARF~~ at www.njstart.gov, the State of New Jersey's new eProcurement system.

Sincerely,



Ronald G. Wengerd
Chief Hearing Officer

RGW:mg

c: G. Olivera
J. Kemery
D. Rodriguez
A. Nelson

¹ The Division's administrative rules governing its procurement programs are set forth in N.J.A.C. 17:12 et seq. These rules can be accessed at <http://www.state.nj.us/treasury/purchase/AdminCode.shtml>.

