



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
<https://www.njstart.gov>
Telephone (609) 292-4886 / Facsimile (609) 984-2575

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

FORD M. SCUDDER
Acting State Treasurer

JIGNASA DESAI-MCCLEARY
Director

June 9, 2016

Via Facsimile [908-689-1576] and USPS Regular Mail

Leonard J. Artigliere, Esq.
McDonnell Artigliere
60 Youmans Avenue
Washington, NJ 07882

RE: Request for Reconsideration of Proposal Rejection
RFP #16-X-24053 Parts and Repairs for Lawn and Grounds Equipment (T-2187)

Dear Mr. Artigliere:

This correspondence is in response to your letter dated May 16, 2016, submitted on behalf of Smith Tractor & Equipment, Inc. (Smith Tractor), referencing the subject Request for Proposal (RFP) and regarding the proposal submitted by Smith Tractor to the Procurement Bureau (Bureau) of the Division of Purchase and Property (Division). Your letter requests that I reconsider the March 9, 2016 final agency decision that upheld the rejection of Smith Tractor's proposal for failing to submit a properly signed *Ownership Disclosure Form* and *Disclosure of Investment Activities in Iran Form* and asserts that these forms were submitted with proper signatures. Included with your letter are "the documents that were downloaded immediately prior to submission by [Smith Tractor] . . . with the signature lines completed."

The subject RFP was issued by the Bureau on behalf of State agencies to solicit proposals for parts and repairs for lawn and grounds equipment. RFP § 1.1 *Purpose and Intent*. The intent of the RFP is "to award contracts to those responsible bidders whose proposals, conforming to [the] RFP are most advantageous to the State, price and other factors considered." *Ibid*. This is a procurement of similar services to those offered by term contract T-2187. Smith Tractor submitted an electronic proposal through the Division's eBid system by the February 16, 2016 proposal submission deadline and subsequently received a Notice of Proposal Rejection. Following the filing of its February 23, 2016 protest, the rejection of Smith Tractor's proposal was upheld.

As noted in the March 9, 2016 final agency decision:

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 4.4.1.2, 4.4.1.2.1, and 4.4.1.2.2, the submission of a completed and signed *Ownership Disclosure Form* prior to or as part of the proposal and a completed and signed *Disclosure of Investment Activities in Iran* form as part of a bidder’s proposal was required.

In this case, the record reveals that Smith Tractor submitted an electronic proposal by the submission deadline of February 16, 2016. Regrettably, Smith Tractor’s proposal did not have a properly signed *Ownership Disclosure Form* and *Disclosure of Investment Activities in Iran* Form. As noted [in RFP Section 4.4.1.2, *NJ Standard RFP Forms*], the two permissible ways to sign these forms were either: 1) downloading the document, physically signing the form, scanning the completed document, and then uploading it; or 2) typing the name of the signatory in the space designated for certification signature and uploading the document. Here, the signature lines on the submitted forms were left blank.

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

Notwithstanding this determination, Smith Tractor seeks to prove “this is not accurate” and that it submitted the properly signed forms as part of its proposal. Your letter states, as evidenced by the included documents, that the “forms have the signature line appropriately completed” Your letter explains these forms were “downloaded immediately prior to submission by [Smith Tractor] [and] printed out with the signature lines completed.”

Although Smith Tractor’s forms included with this request for reconsideration do include a typed signature, a review of the documents submitted through the Division’s eBid system reveals these submitted forms contained a blank signature line.¹ For your reference, a printout of the true forms, as submitted through the eBid system, is attached to this decision. Although the eBid system requires that all forms be uploaded before the proposal can be submitted, the eBid system cannot differentiate which documents are uploaded or what information is contained within a document. Rather, it accepts any document the bidder uploads in a required document field and will notify a bidder that its submission is complete regardless of the information contained within the forms. Furthermore, once a proposal is submitted, the only way a document can be altered is if a bidder goes back into its submission prior to the proposal submission deadline, withdraws the entire proposal using a PIN, uploads a new document, and resubmits the entire proposal using a PIN. The Division is unable to alter, upload, erase, or replace any forms submitted by the bidder through the eBid system; rather, the Division can only download the forms as submitted, as part of a complete proposal after the proposal submission deadline. The responsibility for the contents of the proposal, forms, or submittals necessarily and appropriately rests solely with the bidder.

Based on the foregoing, I must uphold my March 9, 2016 final agency decision and deny Smith Tractor’s request for reconsideration.

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 Smith Tractor’s proposal. Thank

¹ Please note that within the eBid system, to view the form successfully uploaded, a bidder must click on the icon located under the column heading “Form in Lockbox.”

you for registering your business with **NJ START** at www.njstart.gov, the State of New Jersey's new eProcurement system.

Sincerely,


Maurice Griffin
Chief Hearing Officer

MG:DF

Enclosures

c: J. Kerchner
K. Thomas
V. Bequer
A. Nelson