



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
PROCUREMENT BUREAU
33 WEST STATE STREET
P. O. BOX 039
TRENTON, NEW JERSEY 08625-0039
<https://www.njstart.gov>

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

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State Treasurer

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Acting Director

February 18, 2020

Via Electronic Mail [michelle@jerseyshorereporting.com] and USPS Regular Mail

Ms. Michelle Ertle
JerseyShore Reporting, LLC
517A Passaic Avenue
Spring Lake, NJ 07762

Re: I/M/O Bid Solicitation #19DPP00357 JerseyShore Reporting, LLC
Protest of Notice of Intent to Award
T2767 Certified Court Reporters / Certified Real Time Court Reporters- Statewide

Dear Ms. Ertle:

This letter is in response to your January 28, 2019 email, on behalf of JerseyShore Reporting, LLC (JerseyShore), to the Division of Purchase and Property's (Division) Hearing Unit. In that letter, JerseyShore protests the Notice of Intent to Award letter (NOI) issued on January 24, 2020 by the Division's Procurement Bureau (Bureau) for Bid Solicitation #19DPP00357 – T2767 Certified Court Reporters / Certified Real Time Court Reporters- Statewide (Bid Solicitation). The record of this procurement reveals that the Bureau deemed JerseyShore's Quote as non-responsive to the requirements of the Bid Solicitation because JerseyShore was not properly registered as a Small Business Enterprise (SBE) for Categories I, II or III at the time of Quote opening as was required by the Bid Solicitation. On February 6, 2020, the Division received JerseyShore's supplemental protest letter in which JerseyShore alleges collusion between proposed awardees Guy J. Renzi & Associates Inc. (Renzi) and State Shorthand Reporting Services Inc. (State Shorthand).

By way of background, on June 18, 2019, the Bureau issued the Bid Solicitation on behalf of State Using Agencies to solicit Quotes from Vendors {Bidders} for Certified Court Reporters (CCRs) and Certified Real Time Court Reporters (CRCR). (Bid Solicitation § 1.1 *Purpose and Intent*). It is the State's intent to award Master Blanket Purchase Orders (Blanket P.O.s) to those responsible Vendors {Bidders} whose Quotes, conforming to this Bid Solicitation, are most advantageous to the State, price and other factors considered. *Ibid*. This Bid Solicitation was designated as a full Small Business Set-Aside.

In accordance with the Bid Solicitation Instructions, potential Vendor(s) {Bidder(s)} were permitted to submit questions to the Bureau, using the Division's **NJSTART** eProcurement system, by 2:00 pm eastern time on July 9, 2019. (Bid Solicitation Section 1.3.1 *Electronic Question and Answer Period*). Through the posting of Bid Amendment #3 on August 28, 2019, the Bureau answered all thirty-two (32)

questions received.¹ A revised Bid Solicitation was also posted on the State's **NJSTART** eProcurement system on August 29, 2019. A further revised Bid Solicitation was posted on the State's **NJSTART** eProcurement system on October 2, 2019, and was announced through the posting of Bid Amendment #5². Bid Amendment #5 reiterated that the Quote submission date was October 16, 2019 at 2:00 pm eastern time.

On October 16, 2019, the Division's Proposal Review Unit opened nine (9) Quotes submitted through the State's **NJSTART** eProcurement system by the submission deadline of 2:00 p.m. eastern time. After conducting a preliminary review of the Quotes submitted, all nine (9) Quotes were sent to the Bureau for further review and evaluation consistent with the requirements of Bid Solicitation Section 6.7. As noted in the Recommendation Report, the Bureau found that the Quote submitted by JerseyShore was non-responsive to the mandatory requirements of the Bid Solicitation because JerseyShore was not registered as a Small Business Enterprise as of the Quote opening date.

On January 28, 2020, JerseyShore submitted a protest to the Division's Hearing Unit challenging the Bureau's determination that JerseyShore was nonresponsive due to the fact that JerseyShore was not properly registered as a SBE (JerseyShore January 28, 2019 Letter of Protest). On February 6, 2020, the Division received JerseyShore's supplemental protest letter alleging collusion between proposed awardees Renzi and State Shorthand.

In consideration of JerseyShore's protest, I have reviewed the record of this procurement, including the Bid Solicitation, JerseyShore's Quote and protest, 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.

In support of its January 28, 2020 protest, JerseyShore attached two documents which JerseyShore asserts that it uploaded on the State's **NJSTART** eProcurement system as part of its Quote. (JerseyShore, January 28, 2020 Letter of Protest). Additionally, JerseyShore stated "Both [documents], we believe, fully complied with the requirements and we therefore request that our protest be granted and our quote be reconsidered." *Ibid*. The documents attached to JerseyShore's Letter of Protest include the following: 1) a copy of JerseyShore's New Jersey Business Registration Certificate; and 2) a copy of JerseyShore's certification by the New Jersey Department of the Treasury, Division of Revenue and Enterprise Services (DORES) as a Woman-Owned Business (WBE). Noticeably absent from the attachments to JerseyShore's protest letter is any proof or indication that JerseyShore was registered as a SBE as of the Quote opening date

This Bid Solicitation was designated as a Small Business Set-Aside. N.J.S.A. 52:32-25 requires that, "[w]hen a contract or portion thereof has been designated as a set-aside, invitations for bids shall be confined to businesses designated by the department [DORES] as appropriate for the set-aside and bids from other bidders shall be rejected." Consistent with the statute, the pertinent instructions on the Small

¹ Bid Amendment #1, which was posted on July 30, 2019, extended the Quote Submission Due Date from August 6, 2019 to August 21, 2019. Bid Amendment #2, which was posted on August 14, 2019, extended the Quote Submission Due Date from August 21, 2019 to September 12, 2019.

² Bid Amendment #4, which was posted on the State's **NJSTART** eProcurement system on September 9, 2019, changed the Quote Submission date from September 12, 2019 (2:00 p.m. Eastern Time) to October 16, 2019 (2:00 p.m. Eastern Time). All other instructions, terms, and conditions of the Bid Solicitation did not change, based upon Bid Amendment #4.

Business Set-Aside requirements were listed in Bid Solicitation Section 4.4.1.4 *Small Business Set-Aside Blanket P.O.*³, and read as follows:

Pursuant to the provisions of N.J.S.A. 52:32-17 and N.J.A.C. 17:13 this is a full Set-Aside Blanket P.O. for **Category I, II, or III** for Small Businesses.

The Vendor {Bidder} must be registered as a qualifying small business with the Division of Revenue and Enterprise Services, Small Business Registration and M/WBE Certification Services Unit by the date the Quote is received and opened. Evidence that the Vendor {Bidder} has registered as a small business should be submitted with the Quote. Vendors {Bidders} should verify its Small, Minority, Veteran, and Women Owned Business Certification status on the "Maintain Terms and Categories" Tab within its profile in *NJSTART*. In the event of an issue with a Vendor's {Bidder's} Small, Minority, Veteran, and Women Owned Business Certification status, *NJSTART* provides a link to take corrective action.

The Vendor {Bidder} should provide, as part of its response to this Bid Solicitation, proof of its current registration as a qualifying small business with the New Jersey Division of Revenue and Enterprise Services, Small Business Registration and M/WBE Certification Services Unit. Information, registration requirements and application are available by contacting the agency at:

New Jersey Department of the Treasury
Division of Revenue and Enterprise Services
Small Business Registration and M/WBE Certification Services Unit
PO Box 026
Trenton, NJ 08625-0026
Telephone: 609-292-2146
<https://www.nj.gov/njbusiness/contracting/sbsa/>

A downloadable paper application is available at:
https://www.state.nj.us/njbusiness/documents/contracting/NEW%20MBE-WBE%20%20Web%20Application%20JAN_2012.pdf

On-line application is available at:
<https://www.njportal.com/DOR/SBERegistry/>

**** IF THE VENDOR {BIDDER/CONTRACTOR} HAS PREVIOUSLY REGISTERED OR BEEN CERTIFIED AS A SMALL BUSINESS ENTERPRISE, THE VENDOR {BIDDER} SHOULD ENSURE IT IS REGISTERED AND THAT ITS REGISTRATION IS ACTIVE WITH THE DIVISION OF REVENUE AND ENTERPRISE SERVICES, SMALL BUSINESS REGISTRATION AND M/WBE CERTIFICATION SERVICES UNIT, PRIOR TO THE QUOTE OPENING DATE, TO BE ELIGIBLE FOR AWARD.**

³ The Cover Sheet of the revised Bid Solicitation that was posted on October 2, 2019 also indicated that this Entire Blanket P.O. was set aside for Small Business Categories I, II, and III.

IN ORDER TO EXPEDITE THE SMALL BUSINESS REGISTRATION PROCESS FOR THIS PROCUREMENT, THE VENDOR {BIDDER} MAY FAX A COPY OF BID SOLICITATION COVER PAGE ONE (1) REFLECTING THE QUOTE SUBMISSION DATE ALONG WITH THE COMPLETED SMALL BUSINESS REGISTRATION FORM TO THE NEW JERSEY DIVISION OF REVENUE AND ENTERPRISE SERVICES, SMALL BUSINESS REGISTRATION AND M/WBE CERTIFICATION SERVICES UNIT TO THE FAX NUMBER ABOVE.

[Emphasis added.]

The Bureau determined that, as of the Quote opening date, JerseyShore was not registered as a SBE for Categories I, II, or III in accordance with Bid Solicitation Section 4.4.1.4. The Bureau confirmed this fact by reviewing JerseyShore's profile on DORES's NJSAVI database and also reviewing JerseyShore's Vendor Profile in *NJSTART*. Additionally, the Bureau further confirmed that JerseyShore was not registered as an SBE, as of the Quote opening date, by verifying the information with DORES' certification auditors on October 21, 2019.

In reviewing this protest, the Division's Hearing Unit conducted an independent review of DORES' NJSAVI database. As shown in the screenshot below, JerseyShore was issued a SBE certification on April 18, 2016; however, that certification expired on April 18, 2019, prior to this Bid Solicitation being advertised.

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THE STATE OF NEW JERSEY
 Department of the Treasury
 Division of Revenue

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Vendor Information
 (State Agency)

Vendor
 Vendor ID - [REDACTED] (FEIN)
 Business Name - JERSEY SHORE REPORTING LLC
 Alternative Name - JerseyShore Reporting, LLC
 Designation - SBE WBE

Business Address
 517A PASSAIC AVE
 SPRING LAKE, NJ 07762
 Monmouth

Mailing Address
 Same as Business

Principal Owner
 Name - Ms. MICHELLE ERTLE
 Position - Pres.
 Ethnicity - Other
 Percent owned - 95
 Gender - F

Contact Information
 Name - Ms. MICHELLE ERTLE
 Position - Pres.
 Primary Phone- 7322820704 Secondary Phone-
 Fax - 7322820714 Email - cert@jerseyshorereporting.com
 Website - www.jerseyshorereporting.com

Business Information
 Business Type - Limited Liability Company
 Established Date - 01/21/2003
 Major field of operation - Court Reporting Services
 Gross Sales - Cat2 (from \$500,000+ to \$5M)

Designation

Designation	Issued Date	Expiry Date	Status	Certificate No
SBE	04/18/2016	04/18/2019	Expired	A0043-13
WBE	09/12/2019	09/11/2022	Certified	74977-15
SBE	01/28/2020	01/28/2023	Approved	A0160-09

Registrant in Good Standing since - 01/28/2020
 Certificate in Good Standing since -
 Got Work From SAVI - No
 Other Certificates -

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Rather, as shown on the screenshot above and the documents attached to JerseyShore’s Letter of Protest, at the time of the Quote opening, JerseyShore was certified as a WBE not a SBE. A review of JerseyShore’s application reveals that JerseyShore applied to be a WBE only. (See Screenshot below). Certification as a WBE is separate and apart from SBE; the two are not interchangeable, and there is a separate application for SBE certification.⁴

⁴ The definitions for the terms in the “Set-Aside Act for Small Businesses, Female Businesses, and Minority Businesses” are found in N.J.S.A.52:32-19. Definitions relevant to this protest are as follows: “Small business” means a business which has its principal place of business in the State, is independently owned and operated and meets all other qualifications as may be established in accordance with P.L. 1981, c. 283 (C. 52:27H-21.1 et seq.). N.J.S.A.52:32-19 (e.); “Small business set-aside contract” means (1) a contract for goods, equipment, construction or services which is designated as a contract with respect to which bids are invited and accepted only from small businesses, or (2) a portion of a contract when that portion has been so designated. N.J.S.A.52:32-19 (f.); “Female business” means a business which has its principal place of business in the State, is independently owned and operated and at least 51% of which is owned and controlled by women. N.J.S.A.52:32-19 (i); and “Female business set-aside contract” means (1) a contract for goods, equipment, construction or services which is designated as a contract with respect to which bids

The State of New Jersey
 Department of the Treasury
 Division of Revenue

Type: **State of New Jersey MBE/WBE Certification Application**

Firm Name: JerseyShore Reporting, LLC

D/B/A or T/A: _____

Mailing Address: 517A Passaic Avenue

City: Spring Lake State: NJ Zip: 07762

Provide full address of principal office of business

County: Monmouth Phone: 732-282-0704 Fax: 732-282-0714

E-Mail: gene@jerseyshorereporting.com

Website: www.jerseyshorereporting.com

Contact Person: Michelle Erbe M F

Title: President

Federal ID#: [REDACTED] Social Security: [REDACTED]

DO NOT WRITE IN THIS SPACE
 For Agency Use Only

Revenue Receipt Date: _____

Check #: 0923

Referring Agency: _____

SBA _____ NJDOT _____ NJT _____

NY/NJ PA _____ SBOC _____ OTHER _____

AI Letter Sent Date: _____ Int: _____

Approved Date: 9/2/19 Int: AV

Disapproved Date: _____ Int: _____

WBE

ANSWER ALL QUESTIONS OR APPLICATION WILL NOT BE PROCESSED.

1. Name of Firm President/Chief Executive Officer/Managing Member/Owner

Michelle Erbe Gene Erbe, Jr. Michelle & Eugene E. Erbe, Jr.

President and/or CEO Managing Member Owner

1a. Name & title of officer of the firm who can be contacted during the application review process.

Name: Gene Erbe, Jr. Title: Vice President

2. This firm is applying for certification as: (one or designation may be chosen.)

Minority Business Enterprise (MBE) Women Business Enterprise (WBE)

3. Method of acquisition (check all that apply): Date of acquisition: _____

Start New Business Secured Franchise/Concession Inherited Business

Bought Existing Business Merger or Consolidation Other

4/22/03

The Hearing Unit's independent review of the record reveals that JerseyShore did not possess the required SBE Certification by the Quote Submission Due Date of October 16, 2019. The record reveals that JerseyShore was issued a new SBE certification on January 28, 2020, three (3) months after the Quote opening date. Accordingly, the Bureau properly determined that JerseyShore was ineligible for a contract award because it was not SBE certified as of the Quote opening date as required by the governing law.

are invited and accepted only from female businesses; or (2) a portion of a contract when that portion is so designated. N.J.S.A. 52:32-19 (j).

Turning next to JerseyShore's supplemental protest letter, JerseyShore alleges that Vendors {Bidders} Renzi and State Shorthand have engaged in collusion in submitting their Quotes in response to this Bid Solicitation; and therefore, these two Vendors {Bidders} have violated Bid Solicitation Section 4.4.1.1.2 *Non-Collusion*. (JerseyShore February 6, 2020 Supplemental Protest). In support of its supplemental protest argument, JerseyShore states that: 1) under the current contract, Renzi and State Shorthand "share the Camden vicinage...utilizing the same reporters;" 2) Renzi and State Shorthand are co-plaintiffs in a lawsuit against the State of New Jersey – Department of Labor; 3) that Renzi's and State Shorthand's Quotes for this Bid Solicitation reflect very similar numbers; and 4) that Renzi and JerseyShore have been interviewing with potential court reporters before Quote award date. (Jersey Shore February 6, 2020 Supplemental Protest).

Bid Solicitation Section 4.4.1.1.2 *Non-Collusion* states:

By submitting a Quote and signing the Bid Solicitation Offer and Acceptance Page, the Vendor {Bidder} certifies as follows:

- A. The price(s) and amount of its Quote have been arrived at independently and without consultation, communication or agreement with any other Vendor {Contractor, Bidder} or any other party;
- B. Neither the price(s) nor the amount of its Quote, and neither the approximate price(s) nor approximate amount of this Quote, have been disclosed to any other firm or person who is a Vendor {Bidder} or potential Vendor {Bidder}, and they will not be disclosed before the Quote submission;
- C. No attempt has been made or will be made to induce any firm or person to refrain from bidding on this Blanket P.O., or to submit a Quote higher than this Quote, or to submit any intentionally high or noncompetitive Quote or other form of complementary Quote;
- D. The Quote of the firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive Quote; and
- E. The Vendor {Bidder}, its affiliates, subsidiaries, officers, directors, and employees are not, to Vendor's {Bidder's} knowledge, currently under investigation by any governmental agency for alleged conspiracy or collusion with respect to bidding on any Blanket P.O./public contract and have not in the last five (5) years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction involving conspiracy or collusion with respect to bidding on any Blanket P.O./public contract.

First, a review of the current contract (Bid Solicitation #17-X-24300) reveals that Renzi and State Shorthand are part of a pool of six (6) Vendors who received contract awards for the South Region, a region that includes the Camden County vicinage.⁵ Second, the fact that Renzi and State Shorthand are co-plaintiffs in litigation against the State, by itself, does not demonstrate that Renzi and State Shorthand have colluded with each other to prepare and submit their Quotes for this Bid Solicitation. Third, the fact that Renzi and

⁵ It should be noted that JerseyShore is also included in the pool of awarded Vendors for the South Region.

State Shorthand may have similar pricing for this Bid Solicitation is not evidence of collusion. The Bid Solicitation was broken down into two sections, Department of Labor and Workforce Development and Statewide. Bid Solicitation Section 4.4.5.2 *State-Supplied Price Sheet Instructions*. Each of those two sections is further broken down into three geographic regions, North, Central, and South. *Ibid*. A review of the Quote pricing submitted by all Vendors {Bidders} reveals that in the three geographic regions in the Department of Labor and Workforce Development section, Renzi and State Shorthand were the lowest and second lowest priced bidders in each of the three regions. However, in each of the three geographic regions, the four lowest priced Vendors {Bidders} all submitted Quote pricing very close in range. For the three geographic regions in the Statewide section, Renzi and State Shorthand are not even in the top three Vendors {Bidders} for any of the regions, and in each of the three regions, there are two different Vendors {Bidders} who are the first and second lowest bidders whose prices are close to one another, yet JerseyShore does not allege that the close pricing between those two Vendors {Bidders} gives rise to collusion. Two Vendors {Bidders} working in the same industry in the same State might very well offer similar prices for their services, and that fact by itself, does not give credence to JerseyShore's allegations of collusion between Renzi and State Shorthand. As to JerseyShore fourth point, nothing in this Bid Solicitation or in procurement law, prevents Renzi or State Shorthand, or any other Vendors {Bidders}, from interviewing candidates for employment during the evaluation of the Quotes submitted for this Bid Solicitation. Accordingly, I find JerseyShore's allegation of collusion between Renzi and State Shorthand unsubstantiated.

Accordingly, while the Division encourages competition and appreciates the time and effort put forth by JerseyShore in preparing and submitting a Quote, and while I am sure this was an oversight on the part of JerseyShore, the Division does not have the power to waive the requirements for eligibility to bid on a Small Business Set Aside contract. In light of the findings set forth above, I have no choice but to uphold the Bureau's determination to award Master Blanket P.O.s in the accordance with the January 24, 2020 NOI. This is my final agency decision on this matter.

Thank you for your company's continuing interest in doing business with the State of New Jersey and for registering your business with **NJSTART** at www.njstart.gov, the State of New Jersey's new eProcurement system.

Sincerely,



Maurice A. Griffin
Acting Director

MAG: TCR

c: J. Loughran
R. Regan
M. Dunn