



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR  
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Telephone (609) 292-4886 / Facsimile (609) 984-2575

February 19, 2014

Via Electronic Mail [[alia@summitpaper.com](mailto:alia@summitpaper.com)] and USPS Regular Mail

Ms. Alia Shahbaz  
Summit Paper Company  
3480 So. Clinton Avenue  
South Plainfield, NJ 07080

RE: Protest of Notice of Proposal Rejection  
RFP #14-X-23075 DSS Recycled Paper—Napkins, Towels, Toilet Tissues, Toilet Seat  
Covers, and Seat Cover Dispensers

Dear Ms. Shahbaz:

This letter is in response to your email received February 12, 2014, referencing the subject Request for Proposal (“RFP”) and regarding the proposal submitted by Summit Paper Company (“Summit Paper”) to the Division of Purchase and Property (“the Division”). The record of this procurement notes that Summit Paper’s proposal was rejected due to missing pricing information. In your email, you contend that all documents were properly uploaded through the eBid system and you attached a copy of the *Price Sheet*.

I have reviewed the record of this procurement, including the RFP, Summit Paper’s proposal, and 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 Summit Paper’s protest.

The above-referenced solicitation was comprised of the RFP and other documents. Under Section 4.0 *Proposal Preparation and Submission*, the RFP stipulates the following:

#### **4.4.5 PRICE SCHEDULE/SHEET**

In order for the State to make sound business judgments regarding products and prices offered in response to this RFP, the bidder must supply, with its proposal, the information requested on the RFP’s pricing lines in sufficient detail as to allow the State to determine the firm, fixed proposal pricing and the

precise product or service being offered, i.e., with no possible misinterpretation of the price or product/service being offered by the bidder. A bidder's failure to provide, within its proposal, the information deemed by the State to be essential for product identification or price determination will result in rejection of that bidder's proposal. Notwithstanding the aforementioned material obligation, in order to support the State's decision-making process, the State may require a bidder to provide additional information or documentation that has been deemed not to be material to product identification or price determination, in which case, the bidder shall, within the time limit set forth in the written request, comply with said request. Each bidder is required to hold its prices firm through issuance of contract.

....

#### **4.4.6.9 E-Bid vs. Paper bid**

- 1) Bid prices, on paper submissions, must be typed or written in ink. Any price change or the appearance of changes (including "white-outs") must be initialed. Failure to initial price changes shall preclude a contract award being made to the bidder for the affected portion(s) of the bid proposal. Should a bidder bid via the electronic **eBid** portal, the bidder must follow the appropriate steps to remove (withdraw) their existing price sheets (and/or attachments), correct the prices (and/or attachments), re-upload the corrected price sheets (and/or attachments) to COMPLETE the bid for resubmission and **again** sign-off using their designated PIN plus apply the SUBMIT button.
- 2) For bidders submitting their bids through the electronic eBid portal with a copy submitted via surface delivery, eBid submissions shall take precedence over items delivered to the Purchase Bureau via surface delivery.

[(Emphasis in original.)]

Pursuant to N.J.A.C. 17:12-2.2,<sup>1</sup> 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 4.4.5 listed above, "[a] bidder's failure to provide, within its proposal, the information deemed by the State to be essential for product identification or price determination will result in rejection of that bidder's proposal."

In this case, a review of the electronic records reveals that Summit Paper's electronic submission contained a duplicate *Signatory Page*, uploaded by Summit Paper in the place of the *Price Sheet*. With respect to Summit Paper's contention that it successfully uploaded all appropriate

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<sup>1</sup> 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>.

documents, 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.

Notwithstanding Summit Paper'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 pricing 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 Summit Paper's proposal under these circumstances would be contrary to the provisions of the governing statute and would provide Summit Paper 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 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 we encourage competition and appreciate the time and effort put forth in Summit Paper's proposal. Thank you for your continued interest in doing business with the State of New Jersey.

Sincerely,



Ronald G. Wengerd  
Chief Hearing Officer

RGW:DF

c: L. DuBois  
R. Sharbaugh  
J. Signoretta  
G. Gerstenacker  
D. Rodriguez