



# 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

March 26, 2014

Via Electronic Mail [mattmufalli@siglass.net] and USPS Regular Mail

Mr. Matt Mufalli  
South Jersey Glass & Door  
2732 S.W. Boulevard  
Vineland, NJ 08360

RE: Protest of Notice of Proposal Rejection  
RFP #15-X-23426 Locking Hardware (Parts Only)

Dear Mr. Mufalli:

This letter is in response to your email<sup>1</sup> received March 13, 2014, referencing the subject Request for Proposal (“RFP”) and regarding the proposal submitted by South Jersey Glass & Door (“SJ Glass”) to the Division of Purchase and Property (“the Division”). The record of this procurement notes that SJ Glass’s proposal was rejected for absence of a completed *Ownership Disclosure Form*. Your letter contends that SJ Glass was unable to access the RFP documents on the Division’s website in a timely fashion, and therefore was not granted the opportunity to submit a hard copy proposal, as preferred. You also contend that two follow-up emails to the Division’s eSupport Technical Assistance were unanswered. As such, you request that I reconsider the rejection of SJ Glass’s proposal and permit SJ Glass to complement its proposal by acceptance of the signed *Ownership Disclosure Form* included as an attachment to your letter of protest.

I have reviewed the record of this procurement, including the RFP, SJ Glass’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 SJ Glass’s protest.

The record of this procurement reveals the following information. On behalf of SJ Glass, you submitted a question on February 14, 2014, through the Division’s eBid *Contact Us* form, stating you could not “download the appropriate paperwork to then upload. When I click to download anything it brings me to a page just containing errors. I have tried multiple web browsers all

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<sup>1</sup> Your email correspondence is accepted as a letter of protest.

with the same result. . . .” ESupport responded on February 19, 2014, via email stating, “Which solicitation are you trying to access? We can check to see if there are documents to download, and if there are any technical errors.” In a response sent that same day, you stated: “. . . I am trying to bid for ‘Locking Hardware (Parts Only)’ but we are also interested in seeing when the Glass Household & Automotive Glass renews (which we currently have both). . . .” Having not received a response, you sent a second follow-up email on February 26, 2014, stating:

I wanted to follow up on this being that it is a current bid and it says the bid opening date is on 3/4/2014. I replied to the email last week and have not received a reply. Once logged on and at the page displayed below I am unable to download any forms to fill out. If you could please let me know how to remedy this problem it would be greatly appreciated. This has been an ongoing problem for weeks now and I have received no significance response. Additionally per my emails below, I am wondering when I will receive a notification to renew the state contracts I already have as well as to when new contracts become available. Thank you and I greatly appreciate your prompt response.

The Division’s records indicate that SJ Glass submitted an electronic proposal through the eBid system on February 27, 2014, and that all forms were properly uploaded and submitted. The Division’s records also indicate that all RFP documents were uploaded to the Division’s website on January 29, 2014, and that between this date and March 4, 2014, a total of 427 documents were uploaded through the eBid system. This indicates that the system was active and functioning during the contested time period.

Following the proposal deadline of March 4, 2014, SJ Glass received a *Notice of Proposal Rejection* indicating its proposal was rejected due to submission of a “not signed or completed” *Ownership Disclosure Form*. Your emailed protest followed.

The above-referenced solicitation was comprised of the RFP and other documents, one of which was the three-part document titled *NJ Standard RFP Forms*. This document is comprised of three expandable forms, including an *Ownership Disclosure Form*, a *Disclosure of Investigations and Other Actions Involving Bidder Form*, and a *Disclosure of Investment Activities in Iran* form.

The text of the RFP addresses these forms in Section 4.0, *Proposal Preparation and Submission*. The relevant text reads as follows:

#### **4.4.1.2 NJ Standard RFP Forms**

One of the downloadable RFP documents is titled NJ STANDARD RFP FORMS. It is comprised of three separate forms, two of which (Ownership Disclosure and Disclosure of Investment Activities in Iran) discussed below, must be completed, signed and submitted with the bidder’s proposal. **The bidder is cautioned that failure to complete, sign and submit either of these two forms will be cause to reject its proposal as non-responsive as noted**

**below.** If the bidder submits a hard copy proposal, each of the two forms must be physically signed.

If the bidder is submitting an electronic proposal through the Division's eBid system, there are only two acceptable forms of signature for the two forms:

1. The bidder may download the document, physically complete and sign each form, scan the completed document and then upload it, or
2. The bidder may download the document, type the name of the signatory in the space designated for certification signature in each of the forms and then upload the document.

**Note: A bidder's entry of a Personal Identification Number (PIN) will not suffice as a signature on these two forms. A signed RFP Signatory Page is also not an acceptable substitute for signature on these two forms.**

#### **4.4.1.2.1 Ownership Disclosure Form**

Pursuant to N.J.S.A. 52:25-24.2, in the event the bidder is a corporation, partnership or sole proprietorship, the bidder must complete and sign the attached Ownership Disclosure Form. A current completed Ownership Disclosure Form must be received prior to or accompany the submitted proposal. A bidder's failure to submit the completed and signed form with its proposal will result in the rejection of the proposal as non-responsive and preclude the award of a contract to said bidder unless the Division has on file a signed and accurate Ownership Disclosure Form dated and received no more than six months prior to the proposal submission deadline for this procurement. If any ownership change has occurred within the last six months, a new Ownership Disclosure Form must be completed, signed and submitted with the proposal.

[(Emphasis in original.)]

Pursuant to N.J.A.C. 17:12-2.2,<sup>2</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 Sections 4.4.1.2 and 4.4.1.2.1 listed above, the submission of a completed and signed *Ownership Disclosure Form* prior to or as part of the proposal was required for the subject RFP.

In this case, the record indicates that SJ Glass's timely proposal submission did not include a properly completed and signed *Ownership Disclosure Form*. Notwithstanding SJ Glass'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 certifications 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 certifications were provided as required. In light of the

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<sup>2</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>.

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.<sup>3</sup>

This is an unfortunate situation for the State, as we encourage competition and appreciate the time and effort put forth in SJ Glass's proposal. Thank you for your continued interest in doing business with the State of New Jersey.

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. Wengerd', with a long horizontal flourish extending to the right.

Ronald G. Wengerd  
Chief Hearing Officer

RGW:DF

c: L. DuBois  
R. Beauregard  
L. Spildener  
P. Locane  
A. Hyché  
D. Rodriguez

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<sup>3</sup> I do note the record is unclear as to why two of SJ Glass's email queries were not addressed by eSupport; however, this does not affect my decision, as all records indicate the Division's website was properly functioning.