



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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March 9, 2015

Via Electronic Mail [karenb@ttienv.com] and USPS Regular Mail

Karen Buniak, Federal Program Manager
TTI Environmental, Inc.
1253 North Church Street
Moorestown, NJ 08057

RE: Protest of Notice of Proposal Rejection
RFP #15-X-22978 – Aboveground Fuel Tanks . . .

Dear Ms. Buniak:

This letter is in response to your letter dated February 12, 2015, referencing the subject Request for Proposal (“RFP”) and regarding a packaged hardcopy proposal submitted by TTI Environmental, Inc. (“TTI”) to the Division of Purchase and Property (“the Division”). The record of this procurement establishes that TTI’s proposal was rejected by the Division’s Proposal Review Unit as not timely submitted. Your letter contends that TTI’s proposal was timely submitted through the Division’s eBid system by the RFP’s revised due date, February 10, 2015 and that the rejected package was comprised of four exact copies of its electronically submitted proposal as required by the RFP. You contend that the Division’s day-after receipt of the package containing the hardcopies was not expressly prohibited by the RFP and thus should not have been rejected.

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

The record of this procurement indicates that the RFP provided the following guidance on the submission of proposals:

4.3 EBID VS. NON-EBID SUBMISSION INSTRUCTION

4.3.1 EBID SUBMISSION OF PROPOSAL

If the bidder is submitting an eBid proposal, hard copy submission is still required, please see Section 4.3.2 for number of complete and exact copies. Instructions detailing how to enroll in and submit an eBid are available on the web at <https://wwwnet1.state.nj.us/treasury/dpp/ebid/>. If the bidder submits both an eBid and a hard copy of the bidder’s proposal, the eBid proposal will prevail in the event of a discrepancy between the electronic and paper versions. When submitting an eBid, do not use any symbols (i.e., #, @, \$, &, *) in the filename.

4.3.2 NON-EBID SUBMISSION

The bidder must submit the following proposal copies:

One (1) complete ORIGINAL proposal, clearly marked as the "ORIGINAL" proposal.
Two (2) complete and exact copies, clearly marked "COPY".

One (1) unbound, complete and exact copy of the original, clearly marked "COPY["

Copies are necessary in the evaluation of the proposal and for record retention purposes. A bidder failing to provide the requested number of copies will be charged the cost incurred by the State in producing the requested number of copies. The bidder should make and retain a copy of its proposal.

[Emphasis in original]

The procurement record reveals that TTI properly submitted a complete electronic proposal through the Division's eBid system by 2:00 p.m. on February 10, 2015. On February 11, 2015, the Division received, via FedEx®, a sealed package marked as pertaining to the subject procurement. In accord with standard Division practice, that unopened package was deemed untimely received by the Proposal Review Unit, which promptly issued the Notice of Proposal Rejection to TTI. TTI's protest provided an indication that the contents of that unopened package submitted by TTI contained identical copies to the electronic proposal timely submitted by TTI. The Division's Hearing Unit has confirmed that the electronic proposal and the contents of the package, i.e., four bound proposals, are identical.

"The public interest underlies the public-bidding process in [New Jersey]." Barrick v. State, 218 N.J. 247, 258 (2014). Our "public bidding statutes exist 'for the benefit of the taxpayers and . . . their aim is to secure for the public the benefits of unfettered competition.'" Ibid. (quoting Keyes Martin & Co. v. Dir., Div. of Purchase & Prop., 99 N.J. 244, 256 (1985)). Because the electronic proposal was timely received and "the eBid proposal will prevail in the event of a discrepancy between the electronic and paper versions," I therefore reverse the rejection of the package containing the hardcopies of TTI's proposal Review Unit and reinstate TTI's packaged proposal as accepted copies of TTI's timely submitted electronic proposal. The Procurement Bureau is directed to continue and complete its evaluation of TTI's proposal along with the other timely received proposals.

Thank you for your interest in doing business with the State of New Jersey and for registering your business with **NJ START**, the State of New Jersey's new eProcurement system, which is scheduled to go live in the near future.

Sincerely,



Ronald G. Wengerd
Chief Hearing Officer

c: M. Griffin
L. Spildener
P. Locane
D. Rodriguez