



# 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>

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

FORD M. SCUDDER  
*Acting State Treasurer*

JIGNASA DESAI-MCCLEARY  
*Director*

Telephone (609) 292-4886 / Facsimile (609) 984-2575

June 21, 2016

Via email[brads@hankinsandman.com] and USPS Regular Mail

Bradley K. Sclar, Esq.  
Hankin, Sandman, Palladino & Weintrob, PC  
30 South New York Avenue  
Atlantic City, NJ 08401

Subject: Protest of Notice of Intent to Award State Contract #T2947  
RFP # 14-X-23240 – HVAC Computerized System Maintenance & Repair Services - DPMC

Dear Mr. Sclar:

This correspondence is in response to your letter of protest dated June 23, 2014 (Protest Letter), referring to the subject Request for Proposal (RFP) and taking exception, on behalf of CM3 Building Solutions, Inc. ("CM3"), to the Division of Purchase and Property's (Division) Procurement Bureau's (Bureau) Notice of Intent to Award (NOI) HVAC services contracts covering 17 State-owned facilities to three of five bidders. As a bidder slated for an award of contract to provide services at three of the 17 facilities, CM3 takes exception to the Bureau's NOI for a 12-facility contract to Peterson Service Company, Inc. (Peterson). Specifically, CM3 contends that Peterson's proposal did not include RFP-required proof of technician certification and software licensing requirements for seven<sup>1</sup> of the 12 facilities, a condition which CM3 contends requires rejection of Peterson's proposal as materially non-responsive.

In the process of reviewing the record of this procurement relative to the issues presented in your letter (as well as to a point of protest presented in another challenge of the slated awards timely filed by Honeywell Building Solutions), the Division's Hearing Unit conducted fact-finding which included a review of the record, as well as inquiries of the assigned Division procurement specialist, officials representing the Department of the Treasury's Division of Property Management and Construction (DPMC) and select on-site maintenance personnel at the facilities intended to be covered by these contracts. That fact-finding revealed that the RFP required contract awardees to have "software licensing agreements" from the various manufacturers but had not required the bidders to provide proof of their possession of those specific manufacturer-controlled authorizations. During these interactions with various agency maintenance personnel on this matter, other concerns were raised regarding the obsolescent, degraded condition of the HVAC systems in these State-owned facilities, which while still functioning, were in dire need of substantial upgrading rather than continued reliance on outmoded software and patched hardware systems. Aware of these concerns, DPMC management requested that the Division cancel the procurement and rescind the slated

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<sup>1</sup> The seven named State facilities at issue here are as follows: the Department of Environmental Protection Building, William Ashby Building, Mary Roebing Building, Treasury Print Shop, R.J. Hughes Justice Complex, Taxation Building, and Camden Office Building.


awards of contracts so that DPMC can engage an engineering consultant to perform a comprehensive assessment of the computerized HVAC systems of the State-owned facilities.

Based upon the request by DPMC for cancellation of this procurement as well as other RFP issues, including the need for software licensing authorization required to perform the full range of maintenance required by the RFP Section 3, *Scope of Work*, the Director of the Division has determined that the State's best interests are served by cancellation of the subject procurement so that essential, preliminary, fact-finding assessments of the maintenance requirements of all 17 State-owned facilities named in this procurement can be completed by a DPMC-contracted engineering consultant before proceeding with a competitive procurement of contracted maintenance and repair services for the computerized HVAC systems within the subject State facilities.

In consideration of the information outlined above, the Bureau has canceled this solicitation. In light of the Bureau's cancellation of this procurement, I find that CM3's protest as outlined in its Protest Letter are now moot and need not be addressed at this time. This is my final agency decision on this matter.

Thank you for your interest in doing business with the State of New Jersey and for registering your entity with ~~NJSTART~~ at [www.njstart.gov](http://www.njstart.gov), the State of New Jersey's new eProcurement system.

Sincerely,

  
Maurice A. Griffin  
Chief Hearing Officer

c: S. Sutkin  
G. Bocage  
G. Carr  
G. Olivera  
K. Woolford  
L. Spildener