



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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April 3, 2023

Via Electronic Mail only kasi@eclatprime.com

Kasi Viswanath Kollati
Co-Founder and COO
Eclatprime Digital Inc.
5th Floor, Block 1, My Home Hub,
Patrika Nagar, Hi-Tech City,
Hyderabad – 500081

Re: I/M/O Bid Solicitation #23DPP00797– Eclatprime Digital Inc.
Protest of Notice of Cancelation
T3127 NJDEP Regulatory Services Portal (RSP) and Enterprise Systems.

Dear Mr. Kollati:

This final agency decision is in response to your correspondence dated February 21, 2023, submitted on behalf of Eclatprime Digital Inc. (Eclatprime). In that correspondence, Eclatprime protests the Notice of Cancelation (NOC) issued by the Division's Procurement Bureau (Bureau) for Bid Solicitation #22DPP00797 – T3127 NJDEP Regulatory Services Portal (RSP) and Enterprise Systems (Bid Solicitation). The record of this procurement reveals that the Quote submitted by Eclatprime was deemed non-responsive for failure to include all required resumes pursuant to Bid Solicitation Section 3.23, *Resumes*.

By way of background, on August 17, 2022, the Bureau issued the Bid Solicitation on behalf of the Department of Environmental Services (NJDEP). Pursuant to Bid Solicitation §1.1 *Purpose and Intent*, the purpose of the Bid Solicitation was to solicit Quotes for development services for NJDEP's Regulatory Services Portal (RSP), and NJDEP's modernization efforts, migrating the existing New Jersey Environmental Management System (NJEMS) to the Pega platform. NJDEP intends to enhance the scope and capabilities of the existing information management systems. The Scope of Work (SOW) will further clarify the qualifications of the personnel required to achieve that goal. NJDEP anticipates the need for experienced personnel to provide the following:

- A. Information Technology (IT) project management services;
- B. IT technical consulting services;

- C. IT functional consulting services;
- D. IT senior systems programming services;
- E. IT systems programming services; and
- F. IT business systems analysis services.

[Bid Solicitation §1.1 *Purpose and Intent*]

It is the intent of the State to award a Contract to that responsible Bidder whose Quote, conforming to this Bid Solicitation is most advantageous to the State of New Jersey (State), price and other factors considered. Ibid.

On January 11, 2023, the Division’s Proposal Review Unit opened three (3) Quotes which were received by the submission deadline of 2:00 p.m. Eastern Time. After conducting an initial review of the Quotes received for compliance with mandatory Quote submission requirements, one of the three Bids was rejected for failure to submit the mandatory Ownership Disclosure Form pursuant to Bid Solicitation Section 3.13.2 *Ownership Disclosure Form*. No Protest was received from this Bidder.

In conducting the review of the remaining Quotes, the Bureau determined that the two (2) submitted Quotes were non-responsive to the requirements of the Bid Solicitation. Eclatprime’s Quote was deemed non-responsive for failure to include all required resumes, and the other Bidder’s Quote (CGI Technologies and Solutions Inc.) was deemed non-responsive for having submitted terms conflicting with the State Standard Terms and Conditions.

After completing its review and evaluation, the Bureau prepared a Recommendation Report recommending cancellation of the Bid Solicitation. Accordingly, on February 2, 2023, the Bureau issued the NOC advising the Bidders that it was the State’s intent to cancel the Bid Solicitation consistent with the February 2, 2023, Recommendation Report.

On February 21, 2023, Eclatprime submitted a protest letter to the Division challenging the Bureau’s determination that its Quote was non-responsive. By way of summary, Eclatprime states that they submitted the resumes that they “understood as mandatory”, and at the same time included additional resumes with its protest.

In consideration of the Eclatprime protest, I have reviewed the record of this procurement, including the Bid Solicitation, the Quotes received, 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.

Bid Solicitation Section 3.23, *Resumes*, makes the submission of resumes mandatory, including resumes of key supervisor(s) and management, stating:

Detailed resumes shall be submitted for all management, supervisory, and key personnel expected to be assigned to the Contract.

[Emphasis added.]

In its Protest, the Bidder indicates that it had not submitted resumes for management and supervisory personnel stating:

Please note, we had submitted all the resumes that we understood as mandatory. Referring to the snapshot of the RFP document as captured below, we had submitted the minimum mandatory resumes. However, as we understand if the resumes of management & supervisory is also required, we are attaching the same here.

In its February 21, 2023, protest email, Eclatprime seeks to “fix” its submission deficiency due to its misunderstanding regarding the terms of the Bid Solicitation. Allowing Eclatprime to revise its pricing information after the Quote submission deadline would result in an impermissible supplementation of the Quote, which the Division cannot allow as doing so would be contrary to the Court’s holding in In re Protest of Award of On-Line Games Prod. & Operation Servs. Contract, Bid No. 95-X-20175, 279 N.J. Super. 566, 597 (App. Div. 1995). In On-Line Games, the Appellate Division held that “in clarifying or elaborating on a proposal, a bidder explains or amplifies what is already there. In supplementing, changing or correcting a proposal, the bidder alters what is there. It is the alteration of the original proposal which was interdicted by the RFP”. Id. Here, the Division cannot accept the supplemental resumes, as doing so is an impermissible supplementation, change and correction to the submitted Quote.

It is further noted that Eclatprime failed to properly complete the Ownership Disclosure Form, which failure bars the Bidder’s eligibility for an award. On the Ownership Disclosure Form submitted, Eclatprime checked “yes” to question number 3 indicating “The vendor is a corporation, partnership, or limited liability company with individuals, partners, members, stockholders, corporations, partnerships, or limited liability companies owning a 10% or greater interest; and therefore, disclosure is necessary.”

The form then gives instructions for any Bidder that answers question number 3 in the affirmative.

If you answered YES to Question 3, you must disclose the information requested in the space below:

- (a) the names and addresses of all stockholders in the corporation who own 10% or more of its stock, of any class;
- (b) all individual partners in the partnership who own a 10% or greater interest therein; or,
- (c) all members in the limited liability company who own a 10% or greater interest therein.

Here Eclatprime did not indicate its 10% Ownership interest but simply restated its own corporate information:

- 3. The vendor is a **corporation, partnership, or limited liability company** with individuals, partners, members, stockholders, corporations, partnerships, or limited liability companies owning a 10% or greater interest; and therefore, disclosure is necessary.

If you answered **YES** to Question 3, you must disclose the information requested in the space below.*

- (a) the names and addresses of all stockholders in the corporation who own 10% or more of its stock, of any class;
- (b) all individual partners in the partnership who own a 10% or greater interest therein; or,
- (c) all members in the limited liability company who own a 10% or greater interest therein.

NAME	Eclatprime Digital INC	NAME	
ADDRESS	11 FL. 1 AUER CT	ADDRESS	
ADDRESS		ADDRESS	
CITY	East Brunswick	STATE	New Jersey
		ZIP	08816

The failure to properly complete the Ownership Disclosure Form is not a minor defect or “miniscule technicality”, but a bar to the Vendor being eligible for an award. The New Jersey Courts have consistently held that strict compliance with the ownership disclosure requirements of N.J.S.A. 52:25-24.2 is necessary. A Quote is properly rejected where it contains inaccurate or incomplete ownership information. See, Impac, Inc. v. City of Paterson, 178 N.J. Super. 195, 200-01 (App. Div. 1981); Muirfield Const. Co., Inc. v. Essex County Imp. Authority, 336 N.J. Super. 126 (App. Div. 2000).

In light of the findings set forth above, I sustain the conclusions in the Bureau’s February 5, 2023, Recommendation Report, that Eclatprime’s Quote was non-responsive and uphold the February 6, 2023, Notice of Cancellation.

Thank you for your company’s continuing interest in doing business, I encourage you to log into **NJSTART** to select any and all commodity codes for procurements you may be interested in submitting a Quote for so that you may receive notification of future bidding opportunities.

This is the Division’s final agency decision. Pursuant to N.J.A.C. 17:12-3.1, this determination is appealable to the Appellate Division of the Superior Court in accordance with the New Jersey Court Rules (R. 2:4-1) which provide a party 45 days to appeal this final agency decision.

Sincerely,

Amy F. Davis
Acting Director

AFD: DPK

- c: M. Dunn
- S. Brandbergh