



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
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June 21, 2023

Via Electronic Mail Only [eric.blackman@sia-partners.com](mailto:eric.blackman@sia-partners.com)

Eric Blackman  
Sia Partners  
48 Wall Street  
9<sup>th</sup> Floor  
New York, NY 10016

Re: I/M/O Bid Solicitation #22DPP00677 – Sia Partners  
Protest of Notice of Proposal Rejection  
T2599 Quality Assurance/Project Management Services

Dear Mr. Blackman:

This final agency decision is in response to your protest of June 6, 2023, on behalf of Sia Partners which was received by the Division of Purchase and Property's (Division) Hearing Unit. In its correspondence, Sia Partners protests the Notice of Proposal Rejection issued by the Division's Proposal Review Unit for Bid Solicitation No. 22DPP00677 - T2599 Quality Assurance/Project Management Services (Bid Solicitation). The record of this procurement reveals that Sia Partners' Quote was rejected for failing to submit an *Ownership Disclosure Form* with its Quote.

By way of background, on February 15, 2022, the Division's Procurement Bureau (Bureau) issued the Bid Solicitation on behalf of the State of New Jersey. Bid Solicitation §1.1 *Purpose and Intent*. The purpose of this Bid Solicitation is to solicit Quotes to provide Project Management (PM) and Quality Assurance (QA) services, related to Information Technology (IT) and/or Non-Information Technology (Non-IT) Engagements. *Ibid*. The State intends to award multiple Blanket P.O.s, for each of the following four (4) Engagement Groups, in accordance with Section 6.7 of this Bid Solicitation.

1. IT Engagements – Project Management (PM)
2. IT Engagements – Quality Assurance (QA)
3. Non-IT Engagements – Project Management (PM)
4. Non-IT Engagements – Quality Assurance (QA)

The State intends to establish a pool of pre-qualified Vendors for each of the four (4) Engagement Groups, who will then, through a Mini-Bid process, have the opportunity to bid on Engagements for PM and/or QA services related to IT and/or Non-IT Engagements, as applicable. *Ibid*.

On February 23, 2023, the Division's Proposal Review Unit opened thirty-nine (39) Quotes that were received by the submission deadline of 2:00 pm eastern time. After conducting a review of the Quotes

received, the Division’s Proposal Review Unit issued a Notice of Proposal Rejection to Sia Partners for failing to submit an *Ownership Disclosure Form* with its Quote. In response to the Notice of Proposal Rejection, on June 6, 2023, Sia Partners submitted a letter of protest to the Division stating in part:

We would like to apologize for the oversight and formally challenge the proposal rejection on the grounds of a procedural error on behalf of our organization. By providing you with a complete copy of our Ownership Disclosure Form we ask that you reconsider our proposal. Please find the Ownership Disclosure Form attached in the email.

Additionally, and pursuant to the language detailed in N.J. Admin. Code § 17:12-3.3 Section (b)1.iii, Sia Partners would like to request any opportunity provided for an in-person presentation as we feel we are the right organization to fulfill the NJ Department of Treasury’s Quality Assurance/Project Management Services for IT and Non-IT Projects.

With the protest, Sia Partners submitted a completed *Ownership Disclosure Form*.

Per N.J.A.C. 17:12-3.3(d), any “protest accepted by the Director shall be resolved by written decision on the basis of the Director’s review of the written record including, but not limited to, the written protest, the terms, conditions and requirements of the RFP, the proposals submitted in response to the RFP, the evaluation committee report and/or the award recommendation document, pertinent administrative rules, statutes, and case law, and any associated documentation the Director deems appropriate.” In-person presentations are fact-finding for the benefit of the Director and she has the sole discretion to determine if an in-person presentation is necessary to reach an informed decision on the matter(s) of the protest. N.J.A.C. 17:12-3.3(e). Further, “[i]n cases where no in-person presentation is held, such review of the written record shall, in and of itself, constitute an informal hearing.” N.J.A.C. 17:12-3.3(d).

In consideration of Sia Partners’ Protest, I have reviewed the record of this procurement, including the RFP, the Quotes received, Evaluation materials, Sia Partners’ Protest, prior final agency decisions, 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 on the written record. As such, an in-person hearing is not warranted and Sia Partners’ request for an in-person presentation is hereby denied. I set forth herein the Division’s final agency decision.

The Division’s administrative regulations that govern the advertised procurement process establish certain requirements that must be met in order for a Quote to be accepted. Those regulations provide in relevant part that:

- (a) In order to be eligible for consideration for award of contract, the bidder’s proposal shall<sup>1</sup> conform to the following requirements or be subject to designation as a non-responsive proposal for non-compliance:
  - ...
  - 4. Contain all RFP-required certifications, forms, and attachments, completed and signed as required. An RFP may designate certain forms and/or certifications that need not be included in the bidder’s proposal but that must be provided by a successful bidder upon request prior to an award of contract;

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<sup>1</sup> “Shall - Denotes that which is a mandatory requirement.” Bid Solicitation Section 2.2 *General Definitions*.

[N.J.A.C. 17:12-2.2(a) (emphasis added).]

If the requirements of N.J.A.C. 17:12-2.2 are not met, a Quote must be rejected. This regulation mandates stringent enforcement to maintain the equal footing of all Vendors {Bidders} and to ensure the integrity of the State's bidding process.

The subject procurement was comprised of the Bid Solicitation, other documents and mandatory forms which were specifically addressed in Bid Solicitation Section 4.0 *Quote Preparation and Submission* which states in pertinent part:

Vendor's {Bidder's} failure to complete, sign and submit the forms in Section 4.4.1.2 shall be cause to reject its Quote as non-responsive.

[Bid Solicitation § 4.4.1.2 *NJ Standard Bid Solicitation Forms Required With The Quote.*]

Among those forms required to be submitted with the Quote is the *Ownership Disclosure Form*. With respect to ownership, the New Jersey Legislature, in implementing N.J.S.A. 52:25-24.2, mandated that a Vendor {Bidder} must supply its ownership information, prior to or with its Quote, to be eligible to enter into a Blanket P.O. with the State. N.J.S.A. 52:25-24.2 states, in pertinent part:

No corporations, partnership, or limited liability company shall be awarded any [Blanket P.O] nor shall any agreement be entered into for the performance of any work or the furnishing of any materials or supplies, the cost of which is to be paid with or out of any public funds, by the State, or any county, municipality or school district, or any subsidiary agency of the State, or of any county, municipality or school district, or by any authority, board, or commission which exercises governmental functions, unless prior to the receipt of the bid or accompanying the bid, of said corporation, said partnership, or said limited liability company there is submitted a statement setting for the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member exceeding the 10 percent ownership criteria established in this act, has been listed.

[Emphasis added.]

The *Ownership Disclosure Form* is specifically discussed in Bid Solicitation Section 4.4.1.2.1 which states in relevant part:

Pursuant to N.J.S.A. 52:25-24.2, in the event the Vendor {Bidder} is a corporation, partnership or limited liability company, the Vendor {Bidder} must complete an Ownership Disclosure Form.

A current completed Ownership Disclosure Form must be received prior to or accompany the submitted Quote. A Vendor’s {Bidder’s} failure to submit the completed and signed form with its Quote will result in the rejection of the Quote as non-responsive and preclude the award of a Blanket P.O. to said Vendor {Bidder} unless the Division has on file a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the Quote submission deadline for this procurement. If any ownership change has occurred within the last six (6) months, a new Ownership Disclosure Form must be completed, signed and submitted with the Quote.

In the alternative, to comply with this section, a Vendor {Bidder} with any direct or indirect parent entity which is publicly traded may submit the name and address of each publicly traded entity and the name and address of each person that holds a 10 percent or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent, and, if there is any person that holds a 10 percent or greater beneficial interest, also shall submit links to the websites containing the last annual filings with the federal Securities and Exchange Commission or the foreign equivalent and the relevant page numbers of the filings that contain the information on each person that holds a 10 percent or greater beneficial interest. N.J.S.A. 52:25-24.2.

Vendors {Bidders} using **NJSTART** to submit a Quote shall make the appropriate certification on the “Maintain Terms and Categories” Tab within its profile by checking the applicable box and, if required, completing and attaching the shortened Ownership Disclosure Form. Vendors {Bidders} not using **NJSTART** to submit a Quote must complete the full Ownership Disclosure Form located on the Division’s website.

To make complying with this statutorily-required certification process easier, the Division provides the *Ownership Disclosure Form* to the bidding community to be completed by the Vendor {Bidder}. A review of the record for this procurement reveals that on February 23, 2023, Sia Partners submitted Quote No. 00006244 with the attachments listed below.

Quote 00006244 - Sia Partners						
<a href="#">General</a> <a href="#">Items</a> <a href="#">Questions</a> <a href="#">Subcontractors</a> <a href="#">Terms &amp; Conditions</a> <a href="#">Attachments(4)</a> <a href="#">Evaluations</a> <a href="#">Preference</a> <a href="#">Reminders</a> <a href="#">Summary</a>						
Files						
Name	Description	Confidential	Order	Attached By	Attached Date	
<a href="#">Sia Partners RFP Response - State of NJ</a>	#22DPP00677 - T2599 Quality Assurance/Project Management Services for IT and Non-IT Projects	<input checked="" type="checkbox"/>	0	Wayne Hu	02/23/2023	
<a href="#">Sia Partners - T2599 Offer and Acceptance Page.pdf</a>		<input checked="" type="checkbox"/>	0	Wayne Hu	02/23/2023	
<a href="#">T2599 Price Schedule Sia Partners.xlsx</a>	#22DPP00677 - T2599 Quality Assurance/Project Management Services for IT and Non-IT Projects	<input checked="" type="checkbox"/>	0	Wayne Hu	02/23/2023	
<a href="#">Business Registration Certificate - State of New Jersey.png</a>	#22DPP00677 - T2599 Quality Assurance/Project Management Services for IT and Non-IT Projects	<input checked="" type="checkbox"/>	0	Wayne Hu	02/23/2023	

Unfortunately, the *Ownership Disclosure Form* is not one of the listed attachments, nor was it included with any of the items attached to the Quote submitted by Sia Partners.

As an alternative to submission of the *Ownership Disclosure Form*, as noted in Bid Solicitation Section 4.4.1.2.1 above, Vendors {Bidders} using *NJSTART* to submit a Quote are able to make the appropriate certification regarding ownership disclosure on the “Maintain Terms and Categories” Tab within its profile. With respect to ownership, Vendors {Bidders} are able to select one of the following descriptors:

<p><b>Category: Ownership Disclosure</b></p> <p><b>Description: N.J.S.A. 52:25-24.2 requires disclosure of the names and addresses of those individuals, partnerships and/or corporations owning a 10% or greater interest in the bidding entity (“interest owners”). Further, if any of these interest owners is itself a partnership or corporation, you must disclose the names and addresses of the interest owners of that partnership or corporation.</b></p> <p><i>Please select at most one category value</i></p> <p>Select</p> <p><input type="checkbox"/> The bidder is a non-profit entity and is exempt from the ownership disclosure requirement. See Disclosure of Non-Profit Officers and Directors below. (No Ownership Disclosure form is required.)</p> <p><input type="checkbox"/> There are no individuals, partnerships or corporations with a 10% or greater interest in the bidding entity, therefore the bidder is exempt from the ownership disclosure requirement. (No Ownership Disclosure form is required.)</p> <p><input type="checkbox"/> Neither statement is applicable. A current, true and complete Statement of Bidder Ownership on the attached form has been or will be uploaded to the vendor profile prior to the submission deadline and is intended to accompany the bidder's submission.</p>
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Sia Partners did not complete the Ownership Disclosure category or upload the *Ownership Disclosure Form* to its *NJSTART* Vendor profile.

The *NJSTART* system does not prevent a Vendor {Bidder} from submitting a Quote without all of the required forms and documents completed and/or attached as mandated by the specifications. The responsibility for ensuring that all necessary forms and other submittals, are completed and uploaded into *NJSTART* necessarily and appropriately rests solely with the Vendor {Bidder}. Bid Solicitation § 1.4.2 *Vendor {Bidder} Responsibility*. Here, unfortunately, Sia Partners submitted a Quote without an *Ownership Disclosure Form* attached.

In reviewing a Quote submitted in response to a Bid Solicitation, the Division does not have the power to waive the legislative requirement that a Vendor {Bidder} provide its ownership information prior to or accompanying the Quote submission. Only the New Jersey Legislature can change a requirement it has mandated. Unfortunately, Sia Partners did not comply with any of the options available to it for the submission of ownership information. Accordingly, Sia Partner’s Quote was properly rejected by the Division’s Proposal Review Unit for failure to submit the mandatory *Ownership Disclosure Form* with its Quote.

Finally, as noted above, with the Protest, Sia Partners submitted a completed *Ownership Disclosure Form*, and requests “By providing you with a complete copy of our Ownership Disclosure Form we ask that you reconsider our proposal.” However, allowing Sia Partners to submit the completed *Ownership Disclosure Form* after the Quote opening date would result in an impermissible change or correction to its 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) (holding 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”); see also, Twp. of River Vale v. Longo Constr. Co., 127 N.J. Super. 207, 222 (Law Div. 1974) (stating “If the non-compliance is substantial and thus non-waivable, the inquiry is over because the bid is non-conforming and a non-conforming bid is no bid at all.”)

Notwithstanding Sia Partners interest in competing for this procurement, to allow Sia Partners to submit the *Ownership Disclosure Form* after Quote opening would violate the Legislative requirement outlined in N.J.S.A. 52:25-24.2, a requirement that this Division is not authorized to waive. This is an unfortunate situation for the State as the Division encourages competition and appreciates the time and effort put forth in preparing and submitting the Quote. In light of the findings set forth above, I sustain the Proposal Review Unit's Notice of Proposal Rejection.

Thank you for your company's continuing interest in doing business with the State of New Jersey and for registering your business with *NJSTART* at [www.njstart.gov](http://www.njstart.gov). 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 my final agency decision on this matter.

Sincerely,



Cory K. Kestner, Esq.  
Chief Hearing Officer

CKK: DPK

- c. R. Regan
- K. Popso
- M. Maguire