



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR

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July 31, 2017

Via Email [meca@stevenslee.com] and USPS Regular Mail

Maeve E. Cannon, Esq.
Stevens & Lee
100 Lenox Drive, Suite 200
Lawrenceville, NJ 08648

Re: Protest of Notice of Intent to Award
RFP# 16-X-24049: Enhanced Motor Vehicle Inspection/Maintenance System

Dear Ms. Cannon:

This letter is in response to your correspondence of October 24, 2016, to the Division of Purchase and Property (Division) on behalf of Parsons Environment and Infrastructure Technology, Inc. (Parsons) in which Parsons protests the May 13, 2016, Notice of Intent to Award (NOI) a contract to SGS Testcom, Inc. (SGS) for solicitation #16-X-24049: Enhanced Motor Vehicle Inspection/Maintenance System. Specifically, Parsons states that its proposal was the most advantageous to the State, price and other factors considered and that the proposals submitted by SGS and Opus had numerous material deviations from the requirements of the solicitation. Parsons requests that the Division rescind the May 13, 2016, NOI and award it the contract.

By way of background, the subject Request for Proposal (RFP) was issued on December 21, 2015, by the Procurement Bureau (Bureau) on behalf of the New Jersey Motor Vehicle Commission (MVC) and the New Jersey Department of Environmental Protection (DEP). The purpose of the RFP was to solicit proposals to engage a contractor to implement a next generation motor vehicle inspection and maintenance system. RFP § 1.1 *Purpose and Intent*. It is the intent of the Division to award one contract to that responsible bidder whose proposal, conforming to the RFP, is most advantageous to the State, price and other factors considered. *Ibid.* On February 22, 2016, four proposals received by the submission deadline were opened by the Proposal Review Unit. All four proposals were forwarded to the Bureau and the Evaluation Committee for review and evaluation consistent with the criteria set forth in the RFP § 6.7 *Evaluation Criteria*. Based upon that evaluation, on May 13, 2016, the Bureau issued the NOI advising all bidders that it was the State's intent to award a contract to SGS.

Subsequent to the issuance of the NOI, the Bureau received a request from Parsons for copies of the proposals submitted by the other bidders. The Bureau provided Parsons with over 3000 pages of information. The Bureau also provided Parsons with an exemption log identifying the pages that had been redacted and the specific reason for the redaction. Parsons challenged the redactions and accordingly filed an action with the Superior Court of New Jersey – Law Division (Law Division) seeking release of the unredacted documents.

On June 30, 2016 Parsons requested that the Division stay the protest period which was set to expire on July 6, 2016. On July 5, 2016, the Division extended the protest period to July 8, 2016. Parsons did not

file a protest by July 8, 2016. Instead, on July 7, 2016, Parsons filed an Application for Permission to File an Emergent Motion with the Superior Court of New Jersey - Appellate Division (Appellate Division) seeking a stay of the protest period. On the same date, the Appellate Division entered an order to stay the protest period.

On July 18, 2016, Parsons filed an Order to Show Cause Seeking Injunctive Relief under OPRA and the Common Law Right of Access, in the Superior Court of New Jersey - Law Division (Law Division), naming the Division, SGS, OPUS and Applus Technologies, Inc. (Applus) as defendants.

On July 26, 2016, the Appellate Division issued an Order granting Parsons' Emergent Application for a stay of protest period until the earlier of (1) Law Division's Review and Denial of Parsons' request for release of documents, or (2) ten (10) days following the release of documents sought. See, Appellate Division July 26, 2016 Order.

On October 3, 2016 the Law Division denied Parsons' request for disclosure of the bid proposal documents relating to the security measures and technical matters under OPRA and the common law. The Law Division did direct that the names of the SGS employees who were identified to work on SGS' State contract be released by October 21, 2016. See, Law Division's October 12, 2016 Order memorializing the court's October 3, 2016 decision. The names of the SGS employees were released to Parsons on October 7, 2016.

In accordance with the Appellate Division's July 26, 2016 Order, the protest period expired on October 24, 2016. On October 24, 2016 Opus Inspection, Inc. (Opus) and Parsons filed protests with the Division.

With respect to the protest submitted by Opus, Opus alleged that SGS' proposal materially deviated from the requirements of the RFP and therefore SGS' proposal should have been rejected. In a separate final agency decision issued in response to the protest filed by Opus, the Division found that the *Ownership Disclosure Form* submitted by SGS contained a material deviation, as such SGS' proposal was non-responsive and therefore SGS is not eligible for a contract award. Based upon that finding, the Bureau was directed to rescind the May 13, 2016, NOI, to review the other proposals submitted and issue a new NOI as appropriate.

In light of the fact that the May 13, 2016, NOI is to be rescinded, Parsons' protest is rendered moot and there is no need to render a decision on the merits of Parsons' protest.

Thank you for your company's continuing interest in doing business with the State of New Jersey. I invite you to take this opportunity to register your company with **NJSTART** at www.njstart.gov, the State of New Jersey's new eProcurement system.

Sincerely,



Maurice A. Griffin
Acting Director

MAG: RUD

c: M. Tagliaferri
J. Strype
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A. Genova