



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR
33 WEST STATE STREET
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Director

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

January 7, 2014

Via Electronic Mail [msussman@lassersussman.com] and USPS Regular Mail

Mr. Mark Sussman
Lasser Sussman Associates, LLC
220 South Orange Avenue
Livingston, NJ 07039-5817

RE: Protest of Notice of Proposal Rejection
RFP #14-X-23294 Green Acres Program — Appraisal Services

Dear Mr. Sussman:

This letter is in response to your letter received December 30, 2013, referencing the subject Request for Proposal ("RFP") and regarding the proposal submitted by Lasser Sussman Associates, LLC ("Lasser Sussman") to the Division of Purchase and Property ("the Division"). The record of this procurement notes that Lasser Sussman's proposal was rejected for failure to submit in a timely manner. Your letter of protest requests I reconsider the Division's rejection of Lasser Sussman's proposal in light of your contention that the proposal arrived after the submission deadline due to unexpected delays on the part of Federal Express.

I have reviewed the record of this procurement, including the RFP, 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 Lasser Sussman's protest.

The proposal opening date of the subject RFP was December 20, 2013 at 2:00 p.m. The record reveals that Lasser Sussman's proposal was received at 3:18 p.m. on December 20, 2013. In addition, the record of this procurement shows that numerous proposals were received by the submission deadline.

The administrative regulations that govern the Division's advertised procurement process establish certain requirements that must be met in order for a proposal to be accepted. If the requirements of N.J.A.C. 17:12-2.2 are not met, the proposal must be rejected. These regulations

are stringently enforced to maintain the equal footing of all bidders and to ensure the integrity of the State's bidding process. N.J.A.C. 17:12-2.2(a) provides in relevant part: "In order to be eligible for consideration for award of contract, the bidder's proposal shall . . . [b]e submitted on or before the due date and time and at the place specified in the RFP [.]"

The subject RFP further provides:

1.3.2 SUBMISSION OF PROPOSAL

In order to be considered for award, the proposal must be received by the Procurement Bureau of the Division of Purchase and Property at the appropriate location by the required time. **ANY PROPOSAL NOT RECEIVED ON TIME AT THE LOCATION INDICATED BELOW WILL BE REJECTED. THE DATE AND TIME ARE INDICATED ON THE COVER SHEET. THE LOCATION IS AS FOLLOWS:**

PROPOSAL RECEIVING ROOM – 9TH FLOOR
PROCUREMENT BUREAU
DIVISION OF PURCHASE AND PROPERTY
DEPARTMENT OF THE TREASURY
33 WEST STATE STREET, P.O. BOX 230
TRENTON, NJ 08625-0230

Directions to the Division are available on the web at <http://www.state.nj.us/treasury/purchase/directions.shtml>.

Note: Bidders using U.S. Postal Service regular or express mail services should allow additional time since the U.S. Postal Service does not deliver directly to the Procurement Bureau.

Procedural inquiries concerning this RFP may be directed to RFP.procedures@treas.state.nj.us. This e-mail address also may be used to submit requests to review proposal documents. The State will not respond to substantive questions related to the RFP or any other contract via this e-mail address.

To submit an RFP or contract related question, go to the Current Bidding Opportunities webpage or to <http://eBid.nj.gov/QA.aspx>.

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4.2 PROPOSAL DELIVERY AND IDENTIFICATION

In order to be considered, a proposal shall arrive at the Division in accordance with the instructions on the RFP signatory page accompanying this RFP. Bidders are cautioned to allow adequate delivery time to ensure timely delivery of proposals. State regulation mandates that late proposals are ineligible for consideration. **THE EXTERIOR OF ALL PROPOSAL PACKAGES ARE TO BE LABELED WITH THE PROPOSAL IDENTIFICATION NUMBER AND THE FINAL PROPOSAL SUBMISSION DATE OR RISK NOT BEING RECEIVED IN TIME.**

[(Emphasis in original.)]

In addition, within the segment of the subject RFP's signatory page that lists base requirements applicable to all advertised competitive procurements, the requirement for timely submission of proposals is set forth as follows:

**PURSUANT TO N.J. STATUTES, REGULATIONS AND EXECUTIVE ORDERS,
PROPOSALS WHICH FAIL TO CONFORM WITH THE FOLLOWING
REQUIREMENTS WILL BE SUBJECT TO REJECTIONS:**

- 1) PROPOSALS MUST BE RECEIVED AT OR BEFORE THE PUBLIC
OPENING TIME OF 2:00 PM EASTERN TIME ON DECEMBER 12, 2013,
AT THE FOLLOWING ADDRESS (NOTE: TELEPHONE, EMAIL,
TELEFACSIMILE OR TELEGRAPH PROPOSALS WILL NOT BE ACCEPTED):**

**DEPARTMENT OF THE TREASURY
PROCUREMENT BUREAU, PO BOX 230
33 WEST STATE STREET - 9TH FLOOR
TRENTON, NEW JERSEY 08625-0230**

[(Emphasis in original.)]

Thus, the requirement for timely submission of a signed and sealed proposal as mandated by the administrative rules that govern the Division's procurements were clearly and repeatedly established by the provisions of the RFP. As a result, despite Lasser Sussman's apparent intent to submit a proposal for the subject contract in advance of the proposal deadline, under the provisions set forth above, the Division cannot accept Lasser Sussman's proposal as a timely submitted, signed proposal. Furthermore, Lasser Sussman retained Federal Express to act as its agent to deliver the proposal in a timely manner. The Division cannot accept responsibility for the actions or inactions of the bidder or its agent(s).

This is an unfortunate situation for the State, as we encourage competition and appreciate your expertise in the field. I do encourage earlier initiation of future submissions and looking into utilizing the Division's online eBid system. I look forward to your company's continuing interest in doing business with the State of New Jersey.

Sincerely,


Ronald G. Wengerd
Chief Hearing Officer

RGW:DF

c: L. DuBois
R. Beauregard
J. Kemery
D. Rodriguez