



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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September 2, 2015

Via Electronic Mail [ceocamco@aol.com] and USPS Regular Mail

Mr. Charles A. Michel
Charles A. Michel, LLC dba C.A.M. Co.
1310 Havana Ave.
Egg Harbor City, NJ 08215

Re: Non-Notification of Bidding Opportunity – Contract T2108
RFP 15-X-23440 Maintenance & Repair for Heavy Duty Vehicles (T2108)

Dear Mr. Michel,

This correspondence is in response to your letter dated July 28, 2015, received August 3, 2015, submitted on behalf of Charles A. Michel, LLC dba C.A.M. Co. (“CAM”), referencing the subject Request for Proposal (“RFP”) and regarding the award of the subject term contract by the Procurement Bureau (“Bureau”) of the Division of Purchase and Property (“Division”). Your letter contends that CAM, an incumbent T2108 contractor, did not receive an emailed notice of the re-procurement of the subject contract and thus did not submit a proposal prior to the publicly advertised proposal submission deadline of 2:00 p.m., October 3, 2014. You claim that a Bureau employee advised you, sometime prior to June 28, 2015, that your contract would be extended, yet in a different telephone conversation on July 28, 2015, you were advised the contract had already been awarded. As such, you request that CAM be permitted to continue as a T2108 contractor “as previously bid.”

At the onset, I note that the Division’s public procurement program reflects New Jersey statutory and regulatory requirements that have been affirmed by New Jersey courts. A basic precept of the Division’s governing statutes and regulations requires that sealed proposals be submitted by the specified and advertised deadline as announced by public advertisement and website notice. There is no statutory or regulatory requirement for email or other direct notice to potential bidders. The Division’s regulations set forth procurement notification requirements at N.J.A.C. 17:12-2.1, Advertising, as follows:

(c) In addition to statutorily mandated public advertising, the Division shall also publish notices of bidding opportunities on the Division’s website.

(d) As a service to vendors interested in competing for State contracts to be awarded by the Division and to any other parties seeking information about bidding opportunities available via the Division’s competitive contract procurement program, the Division provides an on-line self-registration service known as the e-RFP Notification Service. Vendors and other interested parties can register to receive direct e-mail notices pertaining to the Division’s procurements for goods or

services based upon specific commodity classes or codes. As this is a self-registration process, it does not create an entitlement for any party to receive notice of any particular solicitation of proposals, and the Division and the State shall not be liable for any losses, claims, or damages of any kind if a vendor or other party, for any reason, is not registered or does not receive an e-mail notice. It is the responsibility at all times for e-RFP Notification Service registrants to exercise due diligence in reviewing the notices on the Division's website to assure their awareness of State bidding opportunities announced by the Division.

In response to your assertion, the Division's Hearing Unit conducted a review of the record of the procurement process for the T2108 contract. The record shows that the procurement was conducted in full accordance with the Division's governing statutes and by its standard announcement procedures and practices, including public notice by newspaper advertisement and by direct email notice to vendors who were registered with the Division's eRFP Notification Service for Commodity Code-Class 060-66 (parts and accessories, automotive, miscellaneous (not otherwise classified)), the sole class code used for the recent procurement. This commodity code was also the sole class code used for the prior procurement of the T2108 contract in 2008 for which CAM successfully competed to attain its current contract.

The Division's technical eSupport unit (eSupport) has confirmed that ceocamco@aol.com has been enrolled in the eRFP notification system and registered for Commodity Code 060-66 since January 17, 2005. The eSupport unit has also confirmed that the eRFP notification system generated and sent out two notification emails for the subject RFP. The first, dated August 29, 2014, advised registered users that the Bureau had issued RFP # 15-X-23440, with a bid opening date of October 3, 2014, at 2:00 p.m., and provided a direct link to the RFP documents. The second notification, dated September 18, 2014, advised all registered users that the Bureau had issued an addendum to RFP #15-X-23440 and provided a direct link to the document.

Although bidders are advised to add the eRFP notification email, eRFPNotification.Service@treas.state.nj.us, to their "email safe lists," the Division cannot confirm whether or not ceocamco@aol.com followed this advice and subsequently received the email notifications. The Division can confirm, however, that CAM was registered with eRFP and that a proper notice was sent out through the eRFP notification system advising potential bidders of the T2108 solicitation.

In addition, I note that at registration or re-registration and with each issued notice, all eRFP Notification subscribers receive a notification as follows:

eBid e-mail Notification Disclaimer

This eBid email notification system is provided as a courtesy service to the public. Therefore, the State of New Jersey disclaims any express or implied warranties related to the use of the email notification system and for any materials, information, and/or processes contained within the email notification system. Furthermore, the State does not assume any responsibility for the use of or reliance on any information, delivery of information and/or any transmission or non-transmission of such information, provided by the eBid email notification system. Users of the eBid email notification system assume the risk of using or relying on the information. Users are directed to the Division of Purchase and Property Website for any and all up to date information. Neither the State, its employees, nor its agents shall be liable for any damages, including indirect, special, incidental, or consequential damages a user incurs as a result of viewing, distributing, or copying materials, from use of the email notification service even if advised of the possibility of such damages. Any dispute arising from using or attempting to use information or materials contained herein shall be determined in accordance with New Jersey law without regard to conflict of law principles, in the courts of New Jersey.

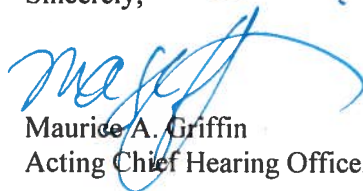
In addition to the eRFP notifications, the Commodities Fleet Unit of the Bureau sent an email notice to potential bidders, including incumbent contractors, on August 29, 2014, providing notice that the subject RFP had been finalized and published. This email also provided a direct link to access the RFP documents and informed all potential bidders that the proposal opening date was scheduled for October 3, 2014, and to “carefully review the RFP, as a lot of changes have been made.” The record shows that ceacamco@aol.com was included on the list of bidders who were sent this courtesy notice.

Furthermore, as to CAM’s claim that in a telephone call to the Bureau “prior to the contract ending” on June 28, 2015, “[CAM] asked if the contract would be extended, and was told yes[,]” the Procurement Specialist assigned to this solicitation does not have a record of speaking to Mr. Michel prior to June 28, 2015. However, the Procurement Specialist indicated that if CAM had spoken to him or another Procurement Specialist during the final extension period, expiring on June 28, 2015, it would have been advised that there were no additional extensions remaining on the contract, and the transition period was processed through the transition clause of RFP Section 5.3. The Procurement Specialist also does have a record of speaking to Mr. Michel on July 28, 2015 at 8:06 a.m.

Based upon the foregoing information, I have determined the subject RFP was properly advertised and CAM was provided notice that the T2108 contract was being resolicited. Therefore, I must deny CAM’s request for special consideration for an award of the T2108 contract. This is the Division’s final agency decision.

While this is unfortunate for both CAM and the State, the Division appreciates your continued interest in doing business with the State of New Jersey. The Division also thanks you for registering your business with NJSTART at www.njstart.gov, the Divisions’ new eProcurement system scheduled to go live soon.

Sincerely,



Maurice A. Griffin
Acting Chief Hearing Officer

c: D. Reiner
K. Thomas
V. Bequer
D. Rodriguez