



# State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR  
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JIGNASA DI SAI-MCCLEARY  
*Director*

July 17, 2015

Via Electronic [sjdieselrepair@comcast.net] and USPS Regular Mail

Shawn S. Vallauri, Sr., President  
S&J Diesel Repair and Fleet Services, LLC  
1329 Belladonna Avenue  
South Egg Harbor, NJ 08205

Re: Protest of Notice of Proposal Rejection  
RFP 15-X-23841: OEM & Non-OEM Maintenance and Repair Services

Dear Mr. Vallauri:

This letter is in response to your May 18, 2015 email on behalf of S&J Diesel Repair and Fleet Services, LLC (S&J), in which you protest the Notice of Proposal Rejection for Solicitation # 15-X-23841.

By way of background, this RFP was issued by the Procurement Bureau (Bureau) of the Division of Purchase and Property (Division) on behalf of State Agencies to solicit proposals for OEM and Non-OEM Maintenance and Repair Services for Light/Medium Duty Vehicles, 15,000 lb. GVWR or less. Proposals were received and opened on April 17, 2015. S&J has received a Notice of Proposal Rejection from the Division's Proposal Review Unit which states that S&J submitted an incomplete/unsigned *Disclosure of Investment Activities in Iran* form. In the May 18, 2015 email, S&J contends that it submitted this form - completed and signed as required by the specifications and that it had printed out a copy of the document as submitted through eBid. In support of S&J's position that it had properly filed the all of the documents, you faxed to this office copies of the completed and signed *Ownership Disclosure*, *Disclosure of Investigations and Other Actions Involving Bidder*, and *Disclosure of Investment Activities in Iran* forms, which you state were copies of the forms that S&J had submitted on eBid.

In consideration of this protest, I have reviewed the record of this procurement, including the RFP, S&J's proposal, and 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 submitted by S&J. I set forth herein my Final Agency Determination.

The above referenced solicitation was comprised of the RFP and other documents, one of which was the three-part document entitled *NJ Standard RFP Forms*. This document is comprised of three expandable forms, namely an *Ownership Disclosure Form*, a *Disclosure of Investigations and Other Actions Involving Bidder Form*, and a *Disclosure of Investment Activities in Iran* form.

These forms are addressed in RFP Section 4.0, *Proposal Preparation and Submission*. The relevant text reads as follows:

**4.4.1.2 NJ STANDARD RFP FORMS**

One of the downloadable RFP documents is titled NJ STANDARD RFP FORMS. It is comprised of three separate forms, two of which (Ownership Disclosure and Disclosure of Investment Activities in Iran) discussed below, must be completed, signed and submitted with the bidder's proposal. **The bidder is cautioned that failure to complete, sign and submit either of these two forms will be cause to reject its proposal as non-responsive as noted below.** If the bidder submits a hard copy proposal, each of the two forms must be physically signed.

If the bidder is submitting an electronic proposal through the Division's eBid system, there are only two acceptable forms of signature for the two forms:

1. The bidder must download the document, physically complete and sign each form, scan the completed document and then upload it, or
2. The bidder may download the document, type the name of the signatory in the space designated for certification signature in each of the forms and the upload the document.

**Note: A bidder's entry of a Personal Identification Number (PIN) shall not suffice as a certifying signature on the forms comprising the NJ STANDARD RFP FORMS document.**

**4.4.1.2.1 OWNERSHIP DISCLOSURE FORM**

Pursuant to N.J.S.A. 52:25-24.2, in the event the bidder is a corporation, partnership or sole proprietorship, the bidder must complete and sign the attached Ownership Disclosure Form. A current completed Ownership Disclosure Form must be received prior to or accompany the submitted proposal. A bidder's failure to submit the completed and signed form with its proposal will result in the rejection of the proposal as non-responsive and preclude the award of a contract to said bidder unless the Division has on file a signed and accurate Ownership Disclosure Form dated and received no more than six months prior to the proposal submission deadline for this procurement. If any ownership change has occurred within the last six months, a new Ownership Disclosure Form must be completed, signed and submitted with the proposal.

**4.4.1.2.2 DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM**

Pursuant to N.J.S.A. 52:32-58, the bidder must utilize this Disclosure of Investment Activities in Iran form to certify that neither the bidder, nor one of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32-56(e)(3)), is listed on the Department of the Treasury's List of Person or Entities Engaging in Prohibited Investment Activities in Iran and that neither the bidder, nor one of its parents, subsidiaries, and/or affiliates, is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If the bidder is unable to so certify, the bidder shall provide a detailed and precise description of such activities as

directed in the form. A bidder's failure to submit the completed and signed form with its proposal will result in the rejection of the proposal as non-responsive and preclude the award of a contract to said bidder.

[RFP Section 4.0, Proposal Preparation and Submission, *emphasis in the original.*]

Pursuant to N.J.A.C. 17:12-2.2, a bidder's proposal must "contain all RFP-required certifications, forms, and attachments, completed and signed as required" or "be subject to automatic rejection." As set forth in RFP 4.4.1.2, 4.4.1.2.1 and 4.4.1.2.2, the submission of a completed and signed *Ownership Disclosure Form* prior to or as part of the proposal and a completed and signed *Disclosure of Investment Activities in Iran* form as part of a bidder's proposal was required.

The record of this procurement indicates that S&J submitted a proposal through the Division's eBid system by the proposal submission date of April 17, 2015. First, with respect to the *Disclosure of Investment Activities in Iran* form, a review of the electronic records reveals that S&J's *Disclosure of Investment Activities in Iran* form uploaded to the eBid system was not completed or signed. S&J contends that it uploaded a completed and signed document to the eBid system; however, the eBid system cannot differentiate what documents are uploaded. Rather, it accepts any document the bidder uploads in a required document field. The responsibility for the contents of the proposal or submittal necessarily and appropriately rests with the bidder. Here, the *Disclosure of Investment Activities in Iran* form uploaded to the eBid system does not match that document which S&J Diesel Repair and Fleet Services subsequently submitted to this office as proof of its filing.

Second, with respect to the *Ownership Disclosure Form* submitted with the proposal, the document uploaded to the eBid system was likewise not signed. S&J's proposal was not initially rejected by the Proposal Review Unit for submitting an unsigned *Ownership Disclosure Form* as S&J had previously submitted a proposal to the Bureau for a different RFP which included a completed and signed *Ownership Disclosure Form*.<sup>1</sup> If the "Division has on file a signed and accurate Ownership Disclosure Form dated and received no more than six months prior to the proposal submission deadline for this procurement" then a bidder's failure to submit a completed and signed form with its current proposal will not result in a rejection of the proposal as non-responsive. (RFP Section 4.4.1.2.1 - Ownership Disclosure Form). However, a review of previously submitted *Ownership Disclosure Form* reveals that the form was dated September 17, 2014. In order to rely upon an *Ownership Disclosure Form* which is on file with the Division, the RFP requires that *Ownership Disclosure Form* be **dated and received no more than six months prior to the current proposal deadline**. Despite the fact that the Division recorded S&J's *Ownership Disclosure Form* as being received in December 2014 in connection with the previous proposal, the *Ownership Disclosure Form* was dated September 17, 2014, seven months prior to the current bid opening. Therefore, S&J's proposal could also have been rejected for its failure to submit a signed *Ownership Disclosure Form*.

Notwithstanding S&J's interest in competing for this procurement, it would not be in the State's best interest to allow a bidder who did not provide the required information to be eligible to participate in the procurement process. Such acceptance would un-level the bidder's playing field as the State received responsive proposals in which all necessary documents and information were provide as required. The deficiency at issue cannot be remedied after the proposal submission deadline as acceptance of S&J's proposal under these circumstances would be contrary to the provisions of the governing statute and provide S&J with disclamation options not available to those bidders whose proposals where fully

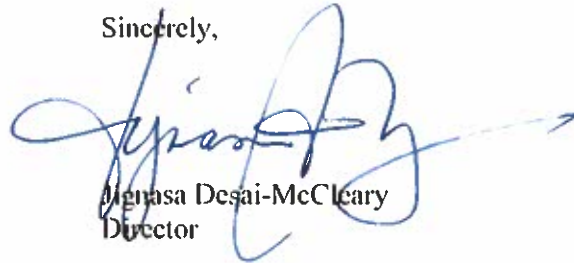
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<sup>1</sup> S&J had previously bid on for RFP 15-X-23440: Maintenance & Repair for Heavy Duty Vehicles (Class 5 or Higher, Over 15,000 LB GVWR). Proposals for RFP 15-X-2344 were opened on December 22, 2014; therefore, the Division's records revealed that S&J had a completed and signed ownership disclosure form on file with the Division as of December 23, 2014.

responsive. In light of the finding set forth above, I must deny your request for eligibility to participate in the competition for the subject contract. This is my final agency decision on this matter.

Thank you for registering your company with **NJ START** at [www.njstart.gov](http://www.njstart.gov), the State of New Jersey's new eProcurement system. The State looks forward to doing business with your company on the contract to be issued for RFP 15-X-23440: Maintenance & Repair for Heavy Duty Vehicles (Class 5 or Higher, Over 15,000 LB GVWR).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Menasa Desai-McCleary', with a long horizontal stroke extending to the right.

Menasa Desai-McCleary  
Director

JD-M: RUD

c: M. Griffin  
D. Reinert  
K. Thomas  
V. Bequer  
A. Nelson  
D. Rodriguez