



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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MAURICE A. GRIFFIN
Acting Director

May 20, 2022

Via Electronic Mail Only MECA@stevenslee.com

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

Re: I/M/O Bid Solicitation #20DPP00471 Parsons Environment and Infrastructure Group, Inc.
Protest of Notice of Intent to Award
T1628 Enhanced Motor Vehicle Inspection Maintenance System

Dear Ms. Cannon:

This final agency decision is in response to your letter of January 10, 2022, on behalf of Parsons Environment and Infrastructure Group, Inc. (Parsons) and Gregg Natosi¹, which was received by the Division of Purchase and Property's (Division) Hearing Unit. In that letter, Parsons protests the December 21, 2021, Notice of Intent to Award (NOI) issued by the Division's Procurement Bureau (Bureau) for Bid Solicitation #20DPP00471 – T1628 Enhanced Motor Vehicle Inspection Maintenance System (Bid Solicitation), as well as the Bureau's determination that its submitted Quote was non-responsive.

BACKGROUND

By way of background, the Clean Air Act (CAA) Amendments of 1990 gave the United States Environmental Protection Agency (EPA) the authority to require metropolitan areas designated as serious, severe or extreme non-attainment for carbon monoxide or ozone, to implement an Inspection and Maintenance (I/M) Program. In New Jersey, the Motor Vehicle Commission (MVC) and the Department of Environmental Protection (DEP) are partners in the effort to protect the health and safety of New Jersey residents by overseeing the I/M Program. Since its inception over 81 years ago, when it was introduced as a vehicle safety initiative, the I/M Program has gone through many changes. Many of these changes were based upon amendments to the various State and federal laws and regulations, including the CAA Amendment of 1990 which govern the I/M Program.

In August 1995, the enhanced version of the I/M program was adopted. This enhanced program is an integral part of New Jersey's compliance plan with the National Ambient Air Quality Standards (NAAQS), and a component of the State Implementation Plan (SIP) which is designed to attain and maintain the health-based NAAQS for ozone and designed to improve air quality and protect the health and

¹ Gregg Natosi is a resident of the New Jersey and an employee of Parsons. No other references to Mr. Natosi or certification from Mr. Natosi were included with the protest.

safety of the State's residents as well as the environment. Although the MVC operates the I/M Program, DEP is the lead agency responsible for ensuring the State meets the mandates of the CAA, its amendments and federal regulations. Further, DEP is charged with monitoring compliance with the SIP.

In August 1998, the State awarded a contract to privatize the centralized vehicle inspection program. See, Request for Proposal 08-X-39078, section 1.2.1 *Program History*. That first contract was awarded to Parsons Infrastructure², which retrofitted/built and equipped 132 inspection lanes, designed and built a vehicle inspection database, and assumed the operation of the Centralized Inspection Facilities (CIFs). *Ibid.* Private Inspection Facilities (PIFs) remain part of New Jersey's I/M program. The current I/M program is considered a hybrid system, meaning it utilizes both CIFs and PIFs. There are approximately 2,100,000 emission inspections performed annually.

The first contract expired and was rebid as Request for Proposals #08-X-39078, and the second contract was awarded to Parsons in 2008. In 2016, the Bureau issued Request for Proposals #16-X-24049, and on May 13, 2016, notice of intent to award was issued to SGS Testcom, Inc. (SGS). Parsons and Opus Inspection, Inc. (Opus) protested that intended award which resulted in Bureau rescinding the intended award to SGS issuing an amended notice of intent to award to Opus Inspection, Inc. on August 18, 2017.³ Parsons, then protested the August 18, 2017 notice of intent to award claiming that Opus' bid was not responsive and suggested that the contract be awarded to Parsons or that the procurement be cancelled and re-bid. As a result, the Bureau did rescind the notice of intent award and the procurement was cancelled.⁴ Parsons thereafter protested the Division's decision to cancel the procurement; after review, the decision to cancel and rebid the contract was upheld.⁵

On August 28, 2019, the Bureau issued the Bid Solicitation for this procurement, which will be the third contract for the program. Bid Solicitation § 1.1 *Purpose and Intent*. The purpose of the Bid Solicitation was to solicit Quotes for implementing the next generation Motor Vehicle Inspection and Maintenance program (NGSystem). The Inspection and Maintenance program is for the mandatory periodic inspection of vehicles to assure compliance with standards established by the State and the federal government. *Ibid.* The intent of this Bid Solicitation is to award a Master Blanket Purchase Order (Blanket P.O. or Contract) to that responsible Vendor {Bidder} (Bidder) whose Quote, conforming to this Bid Solicitation, is most advantageous to the State, price and other factors considered. *Ibid.*, Bid Solicitation Section 7.2 *Final Blanket P.O. Award*.

Pursuant to Bid Solicitation Section 1.3.4 *Mandatory Site Visit*, a Mandatory Site Visit was held on September 15, 2019. To be eligible to submit a Quote, potential Bidders were required to attend the site visit at each of the three identified locations:

1. Bakers Basin Inspection Facility
3200 Brunswick Pike Rte. 1 North, Lawrenceville, NJ 08648
(6-lane station built in 1956)

² Parsons Infrastructure is a subsidiary of the Parsons Corporation as is Parsons Environment and Infrastructure Group, Inc. the bidder and protestor on the subject procurement. A Parsons company has been the State's inspections contractor since 1998 when the inspection system was privatized.

³ The Division's final agency decisions on these protests are available here: <https://www.state.nj.us/treasury/purchase/pdf/decisions/IMO%2016-X-24049%20Opus%20Inspections.pdf>; <https://www.state.nj.us/treasury/purchase/pdf/decisions/IMO%2016-X-24049%20Parsons.pdf>.

⁴ The Division's final agency decision on this protest is available here: <https://www.state.nj.us/treasury/purchase/pdf/decisions/2018/IMO%20RFP%2016-X-24049.pdf>.

⁵ The Division's final agency decision on this protest is available here: <https://www.state.nj.us/treasury/purchase/pdf/decisions/2018/IMOBidSolicitation16-X-24049%20Parsons.pdf>.

2. Flemington Inspection Facility
181 Routes 31 & 202, Ringoes, NJ 08551
(3-lane station built in 1978)
3. Washington Inspection Facility
Route 31 North and Pershing Avenue, Washington, NJ 07882
(1-lane station built in 1938)

On September 17, 2021, Bid Amendment #1 was posted identifying those potential Bidders who participated in the Mandatory Site Visit. Thereafter, on October 29, 2019, Bid Amendment #2 was posted which solicited information on whether potential Bidders desired to participate in additional site visits. Based upon the responses received, Bid Amendment #3 was posted that identified the follow Optional Site Visits scheduled as follows:

<u>Monday 11/18/19</u>	<u>Tuesday 11/19/19</u>	<u>Wednesday 11/20/19</u>	<u>Thursday 11/21/19</u>
Newton	Newark	Lakewood	Manahawkin
Randolph	Rahway	Southampton	Cape May
Wayne	Kilmer	Cherry Hill	Millville
Paramus	So. Brunswick	Deptford	Salem
Lodi	Eatontown	Winslow	
Secaucus	Freehold	Mays Landing	

In addition to the site visits, potential Bidders were permitted to submit questions and/or proposed modifications to the Bid Solicitation and State of New Jersey Standard Terms and Conditions through the **NJSTART** eProcurement System by September 18, 2019. Bid Solicitation 1.3.1 *Electronic Questions and Answer Period*. On December 27, 2019, the Bureau issued Bid Amendment #4 responding to 48 questions received; on March 18, 2020, the Bureau posted Bid Amendment #6, responding to an additional 103 questions. Thereafter, the Bureau posted Bid Amendment #7 and Bid Amendment #14 which permitted potential Bidders to submit a second round of Questions through June 1, 2020 and then a third round of Questions through March 12, 2021. On August 19, 2020, the Bureau posted Bid Amendment #9, responding to eight questions received regarding Bid Solicitation Section 3.14 *Workforce*. On March 1, 2021 and April 16, 2021, the Bureau posted Bid Amendments #14 and #15 respectively responding to the remaining questions received during the second and third round of Q&A.⁶ On April 26, 2021 and May 18, 2021, the Bureau posted Bid Amendments #16 and #17 respectively with revised documents for review by potential Bidders.

On May 25, 2021, Parsons submitted a challenge to certain specifications of the Bid Solicitation. Specifically, Parsons raised the following concerns: (1) Parsons is at a disadvantaged with respect to Quote pricing because it has specific information regarding maintenance, repairs and renovations that are needed at the various inspection facilities; (2) that inaccurate/incomplete information has been provided to potential Bidders with respect to the requirement to hire the current inspection workforce; (3) there was no information included in the Bid Solicitation regarding required COVID protocols; and, (4) the Bid Solicitation failed to include or reference new and emerging technologies. On June 4, 2021, the Division issued its final agency decision finding that no amendments to the Bid Solicitation were necessary.⁷ However, amended responses to questions #1 and 2 on Bid Amendment #15 were posted to clarify that the

⁶ Bid Amendments #5, 8, 10, 11, 12, 13, 19 were to extend the Quote Opening Date.

⁷ The June 4, 2021 final agency decision is available at:

<https://www.state.nj.us/treasury/purchase/pdf/decisions/2021/IMOBidSolicitation20DPP00471Parsons.pdf>.

State will not reimburse the Contractor for any costs incurred for maintenance and repairs performed by the Contractor as required by Bid Solicitation Section 3.21.2 and Bid Solicitation Section 3.21.3.⁸

Thereafter, on June 23, 2021, the Service Employees International Union, Local 32B-J, (SEIU) submitted a challenge to the workforce specifications of Bid Solicitation. On June 29, 2021, the Division issued its final agency decision finding that no amendments to the Bid Solicitation were necessary.⁹

On July 21, 2021, the Division's Proposal Review Unit opened three (3) Quotes received by the submission deadline. Quotes were submitted by Parsons, Opus, and Applus Technologies, Inc. (Applus). After conducting an initial review of the Quotes received for the compliance with mandatory Quote submission requirements, the Division's Proposal Review Unit forwarded the three Quotes to the Bureau for further review. Among the numerous requirements of the RFP was one that required that if a contract was primarily for services, then the services had to be performed in the United States. All three bidders submitted a disclosure form concerning this requirement. Two bidders, Opus and Applus, certified that all services would be performed in the U.S. Parsons certified that all services except software development would be done in the U.S. After completing the initial review of the submitted Quotes, the Bureau determined that the Quote submitted by Parsons was non-responsive to the requirements of the Bid Solicitation. The remaining two (2) Quotes were forwarded to the Evaluation Committee for review and evaluation consistent with the requirements of Bid Solicitation Section 6.7 *Evaluation Criteria*.

After completing its evaluation, on November 22, 2021, the Evaluation Committee prepared a report detailing the review of the Quotes submitted by Applus and Opus and ultimately recommended that a Contract be awarded to Opus. In summary, the Evaluation Committee noted the following:

The Committee has completed its evaluation of the responsive Quotes in response to the Bid Solicitation and recommends that the Blanket P.O. resulting from Bid Solicitation 20DPP00471 T1628 Enhanced Motor Vehicle Inspection Maintenance System be awarded to OPUS Inspection Inc.

As outlined in Section VI, *Technical Evaluation Summary Narrative*, of this Evaluation Report, the Bureau determined that Opus exceeded the Committee's expectations with their technically superior personnel, experience, and methodology for completing the scope of work. The Committee took note of the impressive number of programs run by Opus, in addition to the number of Opus programs that key personnel have participated in. Additionally, the Committee appreciated that key personnel for Opus have firsthand knowledge of the New Jersey program and determined that Opus demonstrated the required experience and ability to complete the scope of work. Opus is technically responsive, accurately and efficiently understood the Bid Solicitation requirements, and is competent to successfully complete the required scope of work.

The Committee is satisfied with Opus' demonstration of how they would successfully perform the requirements of the Blanket P.O. It is for these

⁸ On June 4, 2021, as indicated in Bid Amendment #18, Bid Amendment #15 was re-posted to provide the bidding community with the updated responses to Questions 1 and 2.

⁹ The June 29, 2021 final agency decision is available at:
<https://www.state.nj.us/treasury/purchase/pdf/decisions/2021/IMO-Bid-Solicitation-20DPP00471-Service-Employees-International-Union.pdf>.

reasons that the Committee is recommending Opus for Blanket P.O. award.

[Evaluation Committee Report, pgs. 23-24.]

Thereafter, the Bureau prepared a Recommendation Report summarizing the procurement, and recommending that a contract be awarded to Opus based upon the review and evaluation conducted by the Evaluation Committee. See, December 8, 2021, Recommendation Report. With respect to the Quote submitted by Parsons, the Recommendation Report noted:

The Bureau determined Parsons to be non-responsive due to the Source Disclosure Form. Parsons' submitted Source Disclosure Form stated that services would be provided in Canada. Specifically, Parsons cited that software development would be performed in Canada, for operational efficiency and cost reduction. The Bureau determined that these reasons are contrary to the legislative mandate of N.J.S.A. 52:34-13.2, and contrary to New Jersey State Standard Term and Condition 3.6 in the Bid Solicitation, which both state that, in a contract primarily for services, the services must be performed within the United States.

[Recommendation Report, pg. 5.]

On December 21, 2021, the Bureau issued the NOI advising all Bidders of the State's intent to award a Contract to Opus.¹⁰

On January 10, 2021, Parsons submitted a protest letter to the Division.¹¹ In that protest Parsons' (1) challenged the Bureau's determination that its Quote was non-responsive; (2) claimed that the certain specifications contained in the Bid Solicitation created an unlevel playing field; and, (3) alleged that the Quote submitted by Opus is non-responsive. By way of remedy Parsons' requests that the Bid Solicitation be canceled and a new procurement issued.

In consideration of Parsons' protest, I have reviewed the record of this procurement, including the Bid Solicitation, 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 final agency determination regarding protest submitted.

DISCUSSION

The New Jersey Courts have long recognized that the purpose of the public bidding process is to "secure for the public the benefits of unfettered competition." *Meadowbrook Carting Co. v. Borough of Island Heights*, 138 N.J. 307, 313 (1994). To that end, the "public bidding statutes exist for the benefit of the taxpayers, not bidders, and should be construed with sole reference to the public good." *Borough of Princeton v. Board of Chosen Freeholders*, 169 N.J. 135, 159-60 (1997). The objective of New Jersey's statutory procurement scheme is "to guard against favoritism, improvidence, extravagance and corruption; their aim is to secure for the public the benefits of unfettered competition." *Barrick v. State of New Jersey*,

¹⁰ The December 21, 2021, NOI advised all Bidders that the protest period ended at 4:00 pm on January 6, 2022. However, Counsel for Parsons requested a short extension of Protest period which was granted. On January 3, 2022, all Bidders were advised that the protest period was extended to noon on Monday, January 10, 2022.

¹¹ On January 10, 2022, SIEU also submitted a protest.

218 N.J. 247, 258 (2014) (citing, *Keyes Martin & Co. v. Dir. of Div. of Purchase and Prop.*, 99 N.J. 244, 256 (1985)).

A. The Bureau correctly determined that Parsons' Quote was non-responsive based upon its submitted Source Disclosure Form.

In 2005, the New Jersey Legislature enacted N.J.S.A. 52:34-13.2, which requires that “every State contract primarily for the performance of services shall include provisions which specify that all services performed under the contract or performed under any subcontract awarded under the contract shall be performed within the United States.” N.J.S.A. 52:34-13.2(a), emphasis added.¹² A review of the legislative history reveals that in response to “published reports [indicating] that telephone inquiries by welfare and food stamp clients under New Jersey's Families First Program were being handled by operators in Bombay, India after the contractor moved its operations outside of the United States as a cost cutting measure” the legislature proposed a law requiring that “only citizens or persons authorized to work in the US pursuant to federal law may be employed in performing certain State contracts.” See, S494, introduced January 13, 2004. After review, the Senate State Government Committee recommended modifications and amendments to the proposed law, among which were the following:

~~[The Director of the Division of Purchase and Property and the Director of the Division of Property Management and Construction in the Department of the Treasury shall include, in every] a. Every State contract primarily for the performance of services [;] shall include provisions which specify that [only citizens of the United States and persons authorized to work in the United States pursuant to federal law shall be employed in performance of] all services performed under the contract or performed under any subcontract awarded under the contract shall be performed within the United States.~~

Those modifications were incorporated into P.L. 2005, c. 92 as adopted. In signing the bill into law, Acting Governor Richard J. Codey stated “[t]oday New Jersey is taking an important step to protect our workers and keep jobs from going overseas...With this bill, we are sending a clear message that if a company wants to take jobs from our hard working families and send them overseas, then it will not do business with the state.” See, Governor's press release May, 05 2005; available at <https://repo.njstatelib.org/bitstream/handle/10929.1/21490/ch92gov.pdf?sequence=2&isAllowed=y>.

¹² The law only provides for a limited exception to the requirement, stating in part:

- ...
- (b) The provision of subsection a. of this section shall not apply whenever:
- (1) the Director of the Division of Purchase and Property or the Director of the Division of Property Management and Construction, as appropriate, certifies in writing a finding that a service is required by the Executive Branch of the State and that the service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the State Treasurer.

[N.J.S.A. 52:34-13.2(b)(1), emphasis added.]

Unfortunately, the legislative history does not include any concession for today's global economy and there is limited case law offering any guidance here.¹³ As such, the Bureau's determination and my review must be guided by the plain language of the law.

In determining the meaning of a statute, we consider first the plain language of the statute. If the language is clear, we interpret the statute consistent with its plain meaning. If the language is not clear, we look to the legislative history to aid in determining the legislative intent of the statute. After all, our goal is to interpret the statute consistent with the intent of the Legislature. Nevertheless, we should strive to avoid statutory interpretations that lead to absurd or unreasonable results.

[*Oberhand v. Director, Div. of Taxation*, 193 N.J. 558, 568 (2008), internal citations and quotations omitted, see also, *State v. Lewis*, 185 N.J. 363, 369 (2005), *stating* ("our goal in construing a statute is to discern and effectuate the Legislature's intent. We start by considering the plain language of the statute. If the language is clear, we interpret the statute consistent with its plain meaning....whatever be the rule of construction, it is subordinate to the goal of effectuating the legislative plan as it may be gathered from the enactment when read in the full light of its history, purpose and context."); *State v. Gill*, 47 N.J. 441, 444 (1966) stating, ("in any event, whatever be the rule of construction, it is subordinate to the goal of effectuating the legislative plan as it may be gathered from the enactment when read in the full light of its history, purpose and context. Interpretations which lead to absurd or unreasonable results are of course to be avoided, and so far as the terms of the legislation and proper consideration of the interests of those subject to it will fairly permit, the statutory objective is to be fulfilled".).]

Reviewing the procurement in light of the law, I first note that the subject Bid Solicitation was for a contract "primarily for services" and therefore (a) the Bidders were required to submit a *Source Disclosure Form*, see, Bid Solicitation §§ 1.1 *Purpose and Intent*, 4.4.2.3 *Source Disclosure*, and (b) thus all services to be provided under the contract had to be performed in the United States.

Consistent with the Legislative requirement, the State of New Jersey Standard Terms and Conditions (SSTCs) applicable to this Contract stated in part, "[u]nder N.J.S.A. 52:34-13.2, all contracts primarily for services awarded by the Director shall be performed within the United States, except when the Director certifies in writing a finding that a required service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the State Treasurer." See, SSTCs Section 3.6 *Service Performance Within U.S.* Further, Bid Solicitation Section 4.4.2.4 *Source Disclosure* stated in part "[p]ursuant to N.J.S.A. 52:34-13.2, prior to an award of Blanket P.O., the Vendor {Bidder} is required to submit a completed Source Disclosure Form. The Vendor's {Bidder's} inclusion of the completed Source Disclosure Form with the Quote is requested and advised. See Bid Solicitation Section 7.1.2 for additional information concerning this requirement." Bid Solicitation Section 7.1.2 *Source Disclosure Requirements* continues stating:

¹³ The only New Jersey case referencing N.J.S.A. 52:34-13.2 offers little guidance on how the statute and the legislative intent should be interpreted. See, *In re Bid Solicitation #11-X-21175, Snow Removal & Salting Servs. Statewide*, 2012 N.J. Super. Unpub. LEXIS 2760, 2012 WL 6599794.

Pursuant to N.J.S.A. 52:34-13.2, all Blanket P.O.s primarily for services awarded by the Director shall be performed within the United States, except when the Director certifies in writing a finding that a required service cannot be provided by a Vendor {Contractor} or Subcontractor within the United States and the certification is approved by the State Treasurer. Also refer to Section 3.6 Service Performance within U.S. of the SSTC.

Pursuant to the statutory requirements, the intended Vendor {Contractor} of a Blanket P.O. primarily for services with the State of New Jersey must disclose the location by country where services under the Blanket P.O., including subcontracted services, will be performed. The Source Disclosure Form accompanies the subject Bid Solicitation. FAILURE TO SUBMIT SOURCING INFORMATION WHEN REQUESTED BY THE STATE SHALL PRECLUDE AWARD OF A BLANKET P.O. {CONTRACT} TO THE INTENDED VENDOR {BIDDER}.

If any of the services cannot be performed within the United States, the Vendor {Bidder} shall state with specificity the reasons why the services cannot be so performed. The Director shall determine whether sufficient justification has been provided by the Vendor {Bidder} to form the basis of his or her certification that the services cannot be performed in the United States and whether to seek the approval of the Treasurer.

With its Quote, Parsons submitted the following *Source Disclosure Form* which indicated that services would be performed outside of the U.S.:

SOURCE DISCLOSURE FORM

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY - DIVISION OF PURCHASE AND PROPERTY
31 WEST STATE STREET, P.O. BOX 20 TRENTON, NEW JERSEY 08645-0230

BID SOLICITATION # AND TITLE: 20DPP00471 T1628 Enhanced Motor Vehicle Inspection Maintenance System

VENDOR/BIDDER NAME: Parsons Environment & Infrastructure Group Inc.

The Vendor/Bidder submits this Form in response to a Bid Solicitation issued by the State of New Jersey, Department of the Treasury, Division of Purchase and Property, in accordance with the requirements of N.J.S.A. 52:34-13.2.

PART 1

All services will be performed by the Contractor and Subcontractors in the United States. Skip Part 2.

Services will be performed by the Contractor and/or Subcontractors outside of the United States. Complete Part 2.

PART 2

Where services will be performed outside of the United States, please list every country where services will be performed by the Contractor and all Subcontractors. If any of the services cannot be performed within the United States, the Contractor shall state, with specificity, the reasons why the services cannot be performed in the United States. The Director of the Division of Purchase and Property will review this justification and if deemed sufficient, the Director may seek the Treasurer's approval.

Name of Contractor / Sub-contractor	Performance Location by Country	Description of Service(s) to be Performed Outside of the U.S. *	Reason Why the Service(s) Cannot be Performed in the U.S. *
Parsons	Canada	Software Development	Operational efficiency and cost reduction

**Attach additional sheets if necessary to describe which service(s), if any, will be performed outside of the U.S. and the reason(s) why the service(s) cannot be performed in the U.S.*

Any changes to the information set forth in this Form during the term of any Contract awarded under the referenced Bid Solicitation or extension thereof shall be immediately reported by the Contractor to the Director of the Division of Purchase and Property. If during the term of the Contract, the Contractor shifts the location of services outside the United States, without a prior written determination by the Director, the Contractor shall be deemed in breach of Contract, and the Contract will be subject to termination for cause pursuant to the State of New Jersey Standard Terms and Conditions.

CERTIFICATION

I, the undersigned, certify that I am authorized to execute this certification on behalf of the Vendor/Bidder, that the foregoing information and any attachments hereto, to the best of my knowledge are true and complete. I acknowledge that the State of New Jersey is relying on the information contained herein, and that the Vendor/Bidder is under a continuing obligation from the date of this certification through the completion of any Contract(s) with the State to notify the State in writing of any changes to the information contained herein, that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I will be subject to criminal prosecution under the law, and it will constitute a material breach of my agreement(s) with the State, permitting the State to declare any contract(s) resulting from this certification to be void and unenforceable.

Signature: [Signature] Date: June 11, 2021
 Print Name and Title: Peter Marocco, Senior Vice President

DPP Rev. 10.16.2020

In the protest, Parsons' claims that the Bureau improperly concluded that its Quote was non-responsive based on its submitted *Source Disclosure Form*. Parsons states that it was not required to submit the form with the Quote, it was only required to submit the form prior to Contract award; therefore, the Bureau should not have considered the form, and should have evaluated the Quote along with the other Quotes received. Additionally, Parsons states that during the Quote evaluation, it should have been afforded the opportunity to explain or clarify its *Source Disclosure Form* and obtain an exemption as permitted by the statute. Further, Parsons claims that "software development is not a service performed under the contract." Parsons' protest, p. 8. Rather, Parsons claims that the awarded contract is to "perform motor vehicle inspections, all of which will be performed in the United States...Software development is not a services performed under the contract, but rather is an ancillary component of a required deliverable under the contract terms." Parsons' protest, p. 9.

In evaluating Quotes received, the Bureau determined that because the contract is primarily for services and Parsons' response on the *Source Disclosure Form* concedes that some services would be provided from outside the U.S., the proposal contained a deviation from the requirement in the Bid Solicitation that that all services required under the contract be performed in the U.S. To be deemed non-responsive, Parsons' Quote would have to materially deviate from the requirements of the RFP such that the Bureau would have no assurances that the contract would be performed consistent with the requirements of the RFP. In determining whether a material deviation exists, it is firmly established in New Jersey that material conditions contained in bidding specifications may not be waived. *Twp. of Hillside v. Sternin*, 25 N.J. 317, 324 (1957). In *Meadowbrook Carting Co. v. Borough of Island Heights*, 138 N.J. 307, 315 (1994), the New Jersey Supreme Court adopted the test set forth by the court in *Twp. of River Vale v. Longo Constr. Co.* for determining materiality. 127 N.J. Super. 207 (Law Div. 1974). "In *River Vale*, Judge Pressler declared that after identifying the existence of a deviation, the issue is whether a specific non-compliance constitutes a substantial [material] and hence non-waivable irregularity." *In re Protest of Award of On-Line Games Prod. And Operation Servs. Contract*, 279 N.J. Super. 566, 594 (App. Div. 1995), citing *River Vale*, supra, 127 N.J. at 216. The *River Vale* court set forth a two-part test for determining whether a deviation is material:

First, whether the effect of a waiver would be to deprive the [government entity] of its assurance that the contract will be entered into, performed and guaranteed according to its specified requirements, and second, whether it is of such a nature that its waiver would adversely affect competitive bidding by placing a bidder in a position of advantage over other bidders or by otherwise undermining the necessary common standard of competition.

[*River Vale*, supra, 127 N.J. at 216.]

"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." *River Vale*, supra, 127 N.J. Super. at 222.

In order to determine whether Parsons Quote was non-responsive as determined by the Bureau, I must first consider whether the contract is primarily for services. If yes, then I must consider whether software development is a service to be performed under this contract. I conclude that it is a contract primarily for services and that software development is a service to be performed under the contract. First, I note that the law does not carve out "ancillary component[s]" from the statutory requirement that all services required under the contract be performed in the US, as Parsons argues. Instead, the plain language of the law dictates that if a contract is primarily for services then "all services performed under the contract or performed under any subcontract awarded under the contract shall be performed within the United

States.” N.J.S.A. 52:34-13.2(a), emphasis added. Therefore, additional scrutiny of whether the software development is part of the services performed under this contract is required.

I disagree with Parsons claim that software development is not a service to be performed under the contract. The Bid Solicitation itself and Parsons Quote speak of the importance of software development as part of scope of work. By way of example, the following Bid Solicitation Sections and Parsons’ Quote response referred to the development of software as part of the work to be performed under the Contract:

Bid Solicitation Section 3.39.1.1 *Requirements Analysis* required in part:

- A. During the Implementation Phase (refer to Section 3.1 of this Bid Solicitation), the State and the Vendor {Contractor} shall review the proposed solution(s) and all requirements, and the Vendor {Contractor} shall document, in detail, the specific applications, modules, software components, and hardware components.
...
- C. During the analysis portion of the Implementation Phase, the Vendor {Contractor} shall develop a “Requirements Traceability Matrix” (RTM) that encompasses all system requirements derived from both this Bid Solicitation and from the JAD sessions conducted with the State. The initial RTM is due within 30 days after Blanket P.O. effective date. The requirements shall be traced throughout the entire System Development Life Cycle (SDLC) from requirements through post-project review to ensure that all requirements are met throughout the Implementation Phase. The requirements matrix shall also be used to generate test cases during system testing.

In its Quote, Parsons responded,

The analysis and design phases of the software development methodology are critical for successfully implementing the program required to manage the NGVIP. During implementation, we will work closely with the State to review our proposed solutions to ensure they meet all the requirements gathered during the initial onsite JAD sessions and document in detail the applications, modules, software, and hardware components. During the JAD session we also apply our Design Thinking approach to improve the User eXperience (UX). Our successful management of the current data system provides us with a strong foundation for performing VID enhancements, thus minimizing transitional risk to the State, PIFs, and the motoring public.

...

We will implement all system changes using a modern Agile development methodology. Agile consists of an iterative and incremental development approach based on frequent feedback loops between the customer and developer. Increased feedback between parties provides greater accuracy and fit-to expectations. Feedback loops also speed the development process and ensure greater satisfaction with the outcomes. Employing an Agile approach to software development and using automated deployment

and testing processes allow our team to expedite software releases and defect resolution. During the initial software implementation, before go-live and following the Agile software development concepts, we anticipate frequent software releases. However, after the initial rollout of the system and once the software is stable in the production environment, we will work with the State to establish an agreed-upon release cycle.

[Parsons' Quote, Section 2 – Technical Quote, p. 161-62, emphasis added.]

Further, in response to Bid Solicitation Section 3.39.1.2 *System Environments* Parsons stated:

Our software development strategy has been predicated on using the best available tools and techniques to provide our clients with the best products and to attract the best and brightest people to deliver them. We also provide our IT professionals with training and mentoring for all new technologies we implement. Our architecture and design specification will guide all subsequent activities concerning application development and integration between different elements, including the technical environment and the infrastructure to be used.

The architecture and design specification will include decisions made during the design phase such as our methodology and approach to NGSytem development and implementation and our testing methodology and tools as well as descriptions of the technical architecture, our hardware capacity review and testing plan, and our approach to documentation development.

[Parsons' Quote, Section 2 – Technical Quote, p. 163]

Moreover, in response to Bid Solicitation Section 3.41.28 *System Development and Acquisition* Parsons stated in part “By capturing and resolving issues at the beginning of the software development lifecycle, we ensure only secure applications are deployed in production. It increases efficiency, quality, and deployment velocity by reducing rework allowing us to meet application delivery milestones without sacrificing system security.” Parsons' Quote, Section 2 – Technical Quote, p. 230. Moreover, because software development is such an integrated part of the work sought, Bid Solicitation Section 3.41.28(H) required “security training of software developers and system implementers.” Parsons' acknowledged this requirement noting that “Our employees receive mandatory security training upon hire and annual training thereafter. In addition, employees receive job-specific security training. We hold knowledge sharing sessions to refresh an employee's knowledge of security best practices, and we distribute advisories to prepare everyone for new and emerging threats.” Parsons' Quote, Section 2 – Technical Quote, p. 231.¹⁴

¹⁴ Though not an exhaustive list, additional sections of the Bid Solicitation that refer to software development are the following:

- §1.2.5 *Vehicle Information Database (VID)* – requires the Contractor to provide a replacement Vehicle Information Database, hardware and software, that will collect data from the various inspection facilities, generates reports, performs other data management functions and has multiple communication protocols;
- §3.2 *Project Descriptions and Requirements* – requires the Contractor to develop a diesel inspection data entry portal and develop and provide a public facing web page;

Aside from the specific responses to the Bid Solicitation, Parsons' Quote also signifies the importance of software development to the industry of vehicle inspection stating.

Continued Acquisition and Integration of Transformative, Disruptive Technologies

We are transforming our business capabilities and business models through the acquisition of companies with additional software and hardware intellectual property in:

- Cybersecurity software leveraging artificial intelligence algorithms across large data sets to further expand our coverage with large infrastructure and mobility systems.
- Intelligence software focused on data capture, processing and configuration to produce actionable intelligence from large data sets.
- IoT sensor hardware and systems integration, data capture and processing focused on intelligence applications and mobility solutions for connected and smart cities.
- Space and geospatial software and hardware to expand our small satellite command and control coverage, large data capture and analysis with embedded artificial intelligence to improve space operations.

Our objective is to continue to transform our business into a highly scalable defense and infrastructure platform and increase revenue growth rates, margins and cash flows. Our acquisition strategy is focused on gaining additional intellectual property, resources and expertise to:

- Increase the portion of our portfolio dedicated to software development and sales.
- Sell more of our solutions through transactional and subscription business models, leveraging our expertise developed over the past 20 years in vehicle inspection.
- Leverage our strong balance sheet and free cash flow to fund this strategy.

We seek to expand opportunities for long-term revenue growth, both by developing and acquiring capabilities that will allow us to reach new customers and by expanding our offerings for existing customers. We build on the foundation of our Enhance and Extend strategies and reinforce these strategies with acquisitions of companies with software, hardware and expertise in our target markets, services and solutions.

[Parsons' Quote, 10K, p. 11.]

- §3.1 *Internal Tracking System* – requires that the Contractor design and maintain a comprehensive system to track defects and issues identified;
- §3.3 *Blanket P.O. Schedule* – requires the Contractor to develop NGWorkstation Software;
- §3.23.5 *Audit Software* - requires the Contractor to design, build, and maintain audit data entry systems which shall be accessible from the NGWorkstation and the Management Console;
- §3.10 *Internal Tracking System* – requires Contractor to design and maintain a comprehensive ITS to track system defects and issues related to all software and hardware functions including the NGVID, the NGWorkstations, support operations, communications, and interfaces;
- §3.21.3 *CIF Capital Maintenance, Repairs, and Renovations at Existing CIFs* – requires Contractor to provide an interactive database, accessible to the State for the recording and approval of all requests for capital repairs, maintenance, and renovation at any CIF and/or SIF;
- §3.23.5 *Audit Software* – requires Contractor to design, build, and maintain audit data entry systems accessible from the NGWorkstation and the Management Console, and to facilitate JAD sessions for the development of the audit software;
- §3.30.2 *Inspection Process and Software Functionality* – requires Contractor to gather requirements for the NGWorkstation Software and develop specifications describing the NGWorkstation, with future changes to test logic in the NGWorkstations either by way of the Rules Engine or through periodic software updates;
- §3.34 *Software Upgrades and Versioning* – requires Contractor to include a method to track the version of software releases, rules, and reference tables related to each inspection, and include automatic processes to update the configuration on the NGWorkstation when outdated, and to lock out any NGWorkstation not updated in a timely manner;
- §3.35.1 *General NGWorkstation Security Requirements* – requires Contractor to design and provide the NGWorkstation hardware, software, and data;
- §3.37 *Next Generation Vehicle Information Datasystem* – Requires Contractor to supply the NGVID hardware, software, and ancillary data support;
- §3.43.2 *Repair Data Entry Website for Emission Repair Facilities* – requires Contractor to develop and maintain a limited access repair data entry module within the Management Console for ERFs.

Therefore, notwithstanding Parsons' statement in its protest, it is clear that the software development is an important and necessary part of the work to be performed under the contract and that Parsons recognized and acknowledged the same when submitting its Quote. Accordingly, as required by N.J.S.A. 52:34-13.2, software development must take place in the U.S.

Turning now to Parsons' submitted *Source Disclosure Form*, I agree with Parsons' statement that *Source Disclosure Form* was not required to be submitted with the Quote. N.J.S.A. 52:34-13.2 and Bid Solicitation Section 4.4.2.4 *Source Disclosure* both indicate that the *Source Disclosure Form* is required prior to Contract award, not with the submitted Quote. This is consistent with the Court's holding in *In re Snow Removal and Salting Services Statewide*, A-2583-10T1, 2012 WL 6599794 (N.J. Super. App Div. Dec. 18, 2012). The failure of a Bidder to submit the *Source Disclosure Form* with a Quote does not render the Quote non-responsive and Parsons' Quote was not deemed non-response for failing to submit the *Source Disclosure Form*.

Rather, Parsons' Quote was deemed non-responsive because this is a contract primarily for services and the disclosure on the form (and, as noted below, within its Quote), specifically stated that Parsons would perform services outside of the U.S. Parsons does not dispute that its submitted *Source Disclosure Form* disclosed that services would be performed outside of the U.S. Parsons argues the Bureau's review of the *Source Disclosure Form* prior to the Evaluation Committee completing its review and evaluation of the technical Quote was in error. Parsons' asserts that "[h]ad Parsons been the designated intended awardee, its Source Disclosure Form should have been addressed at that time." Parsons Protest p. 6. Here, Parsons did submit the form with the Quote, allowing the Bureau to review the form and make a determination as to whether Parsons was eligible or ineligible for a Blanket P.O. award based upon statutory requirements prior to evaluation of the proposals. Even if Parsons had not included the form with the submitted Quote, the Bureau may have requested that the form be submitted prior to the Quote evaluation in order for the Bureau to determine whether Parsons would be eligible for a Blanket P.O. award.¹⁵ Importantly, nothing in the statute precludes the Bureau from reviewing the form prior to the Evaluation Committee reviewing a bidder's completed technical Quote. Even if the Bureau had not reviewed the *Source Disclosure Form* prior to the technical Quote being evaluated, the Bureau's analysis and Parsons' designation of non-responsive, would still be the same. The difference would have been that the Bureau and the Evaluation Committee would have expended additional time and resources reviewing Parsons' Quote.


Parsons further argues that the Bureau's determination is without merit and claims that the Bureau should have evaluated its Quote, and afforded it the opportunity to explain, modify or clarify its *Source Disclosure Form*. However, the Bureau's determination was founded in the clear requirements of the law and the statements made throughout Parsons' Quote. As noted above, N.J.S.A. 52:34-13.2, requires that all services be performed in the U.S. Parsons' clear statement on the *Source Disclosure Form* indicate that it would be performing the software development outside of the U.S. Parsons cannot later change its *Source Disclosure Form* to indicate that software development would take place in the U.S. as doing so would be contrary to the Court's holding in 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). In *On-Line Games* the Appellate Division held that "in clarifying or elaborating on a proposal, a bidder explains or amplifies what

¹⁵ Even if Parsons had not submitted the form, and their Quote evaluated, the Bureau would still have requested the form prior to Contract award. At that point, Parsons' statement that the software development would take place outside of the U.S. would have rendered it ineligible for an award and the matter would have been remanded to the Bureau for another award. The Bureau's process of requesting the *Source Disclosure Form* prior to Quote evaluation ensures that State does not expend time and resources to evaluate Quotes, and issue a notice of intent to award to a Bidder, only to find out that the Bidder is ineligible for an award because the contracted work will be performed outside of the U.S.

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.” Emphasis added.

Even if Parsons could have moved the software development to the U.S., it nonetheless would have been ineligible for an award; as shown in the screenshot below, several of the key personnel working on the Contract would be performing the services outside of the U.S.¹⁶ The performance of these services outside of the U.S. would also violate the mandates of N.J.S.A. 52:34-13.2.

Position	Team Member	Years of I/M Experience	Location	Relevant Program Experience						
				NJ	ON	PA	HI	CA	VT	
Executive Program Manager	Peter Marrocco	23	Ontario	○	○	○	○			
Program Manager	Arden Clark	21	New Jersey	○						
IT	Darryl McCarthy	25	Ontario	○	○	○	○	○		
Information Technology	Keith Stern	33	New Jersey	○			○	○		
Region 1 Manager	Anthony Sagliani	22	New Jersey	○						
Region 2 Manager	Diane Cangaolosi	23	New Jersey	○						
Region 3 Manager	Nick Foschetti	15	New Jersey	○			○	○		
Public Information Officer	Traey Frezzini	13	New Jersey	○						
Training Manager	Howard Ubinas	37	New Jersey	○			○			
HR Director	Sonyae Turner	22	New Jersey	○						
Accounting Supervisor	Susan Scott	19	New Jersey	○						
Technical Support Manager, Acceptance Testing, and QA Manager	Rick Goebel	30	New Jersey	○		○				
Infrastructure and Support	Mershad Azad, PMP	18	Ontario	○		○				
Network Infrastructure Manager and Systems Development	Jakub Kowalczyk	18	Ontario	○	○	○			○	
DBA Manager	Nash Budhwani	17	Ontario	○	○	○	○	○	○	
IT QA	Mehran Khansari, PMP	6	Ontario	○	○	○	○	○	○	
Workstation	Gus Nassar	6	Michigan		○				○	
Facilities Supervisor	Kevin McLaughlin	18	New Jersey	○						

 Section 3 Organizational Support and Experience 5

Finally, Parsons states that the “statute is not categorical”, that it allows for an exemption permitting work to be performed outside of the U.S. Again, Parsons is correct that the statute allows for an exemption where “the Director of the Division of Purchase and Property...certifies in writing a finding that a service is required by the Executive Branch of the State and that the service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the State Treasurer.” N.J.S.A. 52:34-13.2(b)(1). Since there were two other Bidders who submitted Quotes in response to the Bid Solicitation, and each indicated that the services to be performed under the Contract would be performed in the U.S., asking for an exemption would have been futile.

Based upon the foregoing, I find no reason to disturb the Bureau’s determination that Parsons’ submitted Quote was non-responsive.¹⁷

¹⁶ The individuals referenced on the table above support Parsons’ contracts in various states across the U.S. and Ontario Canada.

¹⁷ Though not discussed in the Evaluation Committee Report or the Recommendation Report, a review of Parsons’ submitted Quote reveals that Parsons’ submitted *Ownership Disclosure Form* did not accurately set forth its ownership structure contrary to the requirements of N.J.S.A. 52:25-24.2 and Bid Solicitation Section 4.4.1.2.1. On the submitted *Ownership Disclosure Form* Parsons stated that there were no 10% or greater owners. However, a review of the Parsons Corporations Form 10-K filed with the SEC on March 10, 2020 and information previously provided to the Division, it appears that Parsons Environment and Infrastructure Group, Inc. is a wholly-owned subsidiary of Parsons Corporation.

B. The terms and conditions of the Bid Solicitation fully addressed the needs of the State, complied with the requirements of the applicable laws, and ensured that all Bidders were on a level playing field.

In its protest, Parsons challenges certain terms and conditions or specifications of the Bid Solicitation. Specifically, Parsons alleges that the State (1) failed to clarify the capital maintenance, repair and renovation costs leading to divergent Quote pricing, and (2) the State failed to mandate that a new Contractor be required to offer employment to all existing employees.

Pursuant to the Division's governing regulations, a "challenge to a specification contained within the [Bid Solicitation]" must be brought prior to the Quote opening date. N.J.A.C. 17:12-3.2(a) and (b). Parsons availed itself of the opportunity to challenge the specifications by its May 25, 2021 submitted a protest challenging the terms and conditions of the Bid Solicitation.¹⁸ In that challenge, Parsons raised the following concerns regarding the Bid Solicitation: (1) Parson is at a disadvantaged with respect to Quote pricing because it has specific information regarding maintenance, repairs and renovations that are needed at the various inspection facilities; (2) that inaccurate/incomplete information has been provided to potential Bidders with respect to the requirement to hire the current inspection workforce; (3) there was no information included in the Bid Solicitation regarding required COVID protocols; and, (4) the Bid Solicitation failed to include or reference new and emerging technologies.

On June 4, 2021 the Division issued its final agency decision in response to Parsons' challenge finding that no amendment to Bid Solicitation language regarding routine maintenance, capital maintenance, workforce, COVID protocols; or new and emerging technologies as required. However, an amended response to Questions #1 and 2 on Bid Amendment #15 was posted to confirm that the State will not reimburse the Contractor for any costs incurred for maintenance and repairs performed by the Contractor as required by Bid Solicitation Section 3.21.2 and Bid Solicitation Section 3.21.3.

If Parsons was dissatisfied with the final agency decision, its recourse was to file an appeal as instructed by the Division's governing regulations which state "Final agency determinations by the Director on matters of protest are appealable to the Appellate Division of the Superior Court of New Jersey." N.J.S.A. 17:12-3.1(b). Parsons did not file an appeal, and over 45 days later, on July 21, 2021, the Division opened the Quotes received in response to the Bid Solicitation.¹⁹

Only now, after the issuance of the NOI, having not been selected as the intended awardee and finding that its submitted Quote rendered it ineligible for a Contract award, does Parsons renew its challenges to the specifications in an effort to have the procurement canceled and rebid, potentially allowing Parsons the opportunity to cure deficiencies in its submitted Quote.²⁰

Parsons' challenge to the specifications raised here was fully addressed in the Division's June 4, 2022 final agency decision, and therefore, cannot be raised again here. N.J.S.A. 52:34-10.10; N.J.A.C. 17:12-3.2.²¹

¹⁸ SEIU also filed a challenge to the specifications set forth in Bid Solicitation Section 3.14 *Workforce*.

¹⁹ The time for Parsons' to file an appeal lapsed on July 19, 2021, prior to the Quote opening date.

²⁰ As noted above, in 2017, Parsons' protested the intended contract award to Opus for Bid Solicitation 16-X-24049 – T1628 Enhanced Motor Vehicle Inspection Maintenance System and suggested that the State cancel the procurement, revise the specification and re-bid the contract. Ultimately, the notice of intent to award was rescinded and on June 6, 2018, that 2017 procurement was cancelled.

²¹ The Division's June 4, 2021, final agency decision on Parsons' specification challenge is available on the Division's website here:

<https://www.state.nj.us/treasury/purchase/pdf/decisions/2021/IMOBidSolicitation20DPP00471Parsons.pdf>

C. The Quote submitted by Opus was responsive to the mandatory requirements of the Bid Solicitation.

Parsons alleges that the Quote submitted by Opus was nonresponsive to the requirements of the Bid Solicitation. Specifically, Parsons alleges (1) that Opus cannot provide the services or incidentals promised at the staffing level or price proposed in its Quote; (2) Opus failed to identify all of its subcontractors; (3) Opus' proposal to mail new equipment inspection facilities is contrary to the requirements of the Bid Solicitation; and (4) Opus' proposed retrofit plan was contrary to the requirements of the Bid Solicitation.

To be deemed non-responsive, Opus' Quote would have to materially deviate from the requirements of the Bid Solicitation such that the Bureau would have no assurances that the contract would be performed consistent with the specified requirements. In determining whether a material deviation exists, it is firmly established in New Jersey that material conditions contained in bidding specifications may not be waived. *Twp. of Hillside v. Sternin*, 25 N.J. 317, 324 (1957). As noted above, “[i]f 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.” *River Vale*, supra, 127 N.J. Super. at 222. The question to be answered then is whether or not Opus' Quote contained a deviation, and if it did, whether the deviation was material rendering the Quote nonresponsive.

1. Opus is permitted to utilize its own business judgement to staff and provide the services required by the scope of work.

Parsons alleges that Opus cannot perform the Contract at its proposed staffing level or its proposed price. Parsons protest point is based upon presumption and conjecture and not grounded in the requirements of the Bid Solicitation or statements made in Opus Quote. Notably, Parsons protest on this point mirrors the concerns expressed by the Evaluation Committee and as reflected in the Evaluation Committee Report.

Pursuant to Bid Solicitation Section 3.13.2.1, *CIF Network and Lane Configuration*, the centralized inspection system currently utilized by the State includes 25 CIFs with a total of 107 inspection lanes. The Committee noted that Opus' draft CIF Network and Lane Configuration Plan states that Opus will “retrofit all 25 CIFs in the network, including 95 of the 107 lanes in these facilities that are currently used for testing” based on observation that 12 lanes are currently unused for testing or are used for storage (Opus Quote, PDF Page 200). Opus will not retrofit those 12 lanes unless there is a need in the future, in which case they will outfit them with the same test equipment and infrastructure as the other 95 lanes.

Additionally, the Committee noted that Opus will “retrofit the State's three (3) SIF lanes with the same equipment as in the CIFs,” as required by Bid Solicitation Section 3.21.4, *Specialty Inspection Facilities (SIFS)* (Opus Quote, PDF Page 200). The Committee noted that Opus is planning on retrofitting lanes with tablet workstations, and the Committee agreed that retrofitting with tablets will be beneficial because it will provide more mobility to the staff and may help with increasing throughput in the lanes (Opus Quote, PDF Page 153). The Committee also noted that Opus is planning on retaining and incorporating into the NGSytem the undercarriage cameras, lifts and brake testers, security cameras and lane (web) cameras and system, and ticket gates, which, as the Committee

agreed, would allow for a smoother transition and implementation process (Opus Quote, PDF Pages 202-203). Opus is also proposing the installation of automated license plate recognition (ALPR) cameras at the ticket gate of all but four (4) CIFs, which should maximize the capture of wait times and will “ensure that more than 98 percent of the vehicles entering the queue are captured by the wait time system,” which, as the Committee agreed, should help Opus address common pitfalls and difficulties in the inspection process (Opus Quote, PDF Page 206). The Committee agreed that Opus’ plan to retrofit during transition and implementation would optimize the current infrastructure and would provide for a successful next generation testing program.

The Committee noted that Opus presented an understanding that demand for inspections fluctuate and that not all lanes operate daily by proposing to “operate an average of 78 CIF lanes daily or weekly [with] the other available lanes [being] opened for peak volume or to accommodate motorists during facility retrofitting” (Opus Quote, PDF Pages 556-557). The Committee agreed that Opus’ proposed plan of operating 78 lanes on average should allow for successful completion of Blanket P.O. requirements.

Additionally, the Committee noted that Opus is proposing a two-position test lane configuration with an expected throughput of 26.87 vehicles per hour per lane (Opus Quote, PDF Page 541). The Committee agreed that the two-position configuration and expected throughput look good in theory and on paper, but that the expected throughput is a perfect world scenario and issues, such as safety inspections, problem vehicles, and retests could slow down throughput in a two-position lane configuration.

Pursuant to Bid Solicitation Section 3.14, *Workforce*, current qualified personnel should be offered employment under the NGS System. The Committee noted that Opus stated that they will, upon the Blanket P.O. effective date, “meet with SEIU Local 32BJ leadership” to negotiate and discuss the new program (Opus Quote, PDF Page 584). The Committee agreed that negotiating with union representatives and actively attempting to retain existing personnel could help with staffing retention and recruitment under the new program. Additionally, the Committee noted that Opus, pursuant to Bid Solicitation Section 3.15, *Facility Management*, will staff New Jersey CIF facilities with an average of 200 full and part time inspectors at 65% efficiency, and can achieve an 80% lane efficiency with as few as 181 inspectors with new training, experienced staff, and good management (Opus Quote, PDF Page 574). Opus stated that they would be successful in operating the program with 230-278 personnel, with 80% of that personnel employed full-time. Additionally, the Committee noted that Opus is proposing to have one (1) assistant facility manager at each CIF in addition to the one (1) facility manager required by Section 3.15, and agreed that this would be beneficial to successful operations of the program in addition to exceeding the requirement in Section 3.15 (Opus Quote, PDF Page 574). The Committee agreed that, depending on retention and recruitment, Opus might have difficulty

maintaining the program but agreed that if Opus can retain and recruit a full workforce, there would be no issues.

[Evaluation Committee Report, pgs. 12 – 13.]

However, in reaching its recommendation that the Contract be awarded to Opus, the Evaluation Committee concluded that

...Opus' technical Quote met and exceeded the requirements of the Bid Solicitation and presented an approach that would permit successful performance of the technical requirements of the Blanket P.O.

Opus' experience paralleled with its knowledge and completion of Blanket P.O.s of similar size and scope would be beneficial to the completion of the tasks identified in the Bid Solicitation.

[Evaluation Committee Report, pgs. 15 – 16.]

In support of its claims, Parsons notes that Opus's proposal has failed to provide for a sufficient number of staff to operate the number of lanes Opus has proposed to use at each inspection facility. Parsons note that per the current collective bargaining agreement, for every three inspectors a fourth is required to cover breaks and lunches. To begin, Parsons seeks to substitute its judgement for that of the evaluation committee. Further, Parsons' staffing calculations are based upon its operations and its negotiated collective bargaining agreement.²² Parsons presumes that Opus' operational and staffing procedures are identical to that of Parsons and that it will be bound the same collective bargaining agreement. However, as indicated in its Quote, Opus has experience performing inspections' contracts for numerous states and presumably used its own knowledge and operational efficiencies in creating the staffing plan.

Importantly, the Bid Solicitation did not require a specific number of staff at each facility or inspection lane; rather, the Bid Solicitation required that:

The Vendor {Contractor} shall provide a sufficient number of trained supervisors, managers, and lane inspectors to:

1. Conduct inspections and operate CIFs in accordance with all governing inspection regulations and the terms of this Bid Solicitation;
2. Perform management, administrative, and service functions associated with the conduct of such inspections and the operation of the inspection facilities; and
3. Meet the Wait Time standards defined in Section 3.17 of this Bid Solicitation

[Bid Solicitation Section 3.14 *Workforce (C)*.]

By contrast, Bid Solicitation Section 4.3.3.6 *Plans Summary* required the submission of a draft CIF Staffing/Training Plan with the Quote. With its Quote, Opus included a draft CIF Staffing/Training Plan setting forth the minimum and maximum staff based upon a 3, 2 and 1 positions at each lane and the inspection demand. In support of its draft plan stated:

²² The State is not a party to the CBA and does not have a copy of it.

Opus management team members use vehicle throughput and expected test demand to determine labor requirements and appropriate staffing levels. Staffing fluctuates as demand requires and must be sufficient in low, normal, and peak demand situations.

...

Using the throughput calculations provides us with a theoretical staffing calculation for inspectors. We vary staffing depending on volume and time of day.

...

Based on the testing information provided by MVC, our own throughput calculations, and capacity estimates provided in the Transition, Retrofit, Management and Operations analysis (Section 2.4.13.4 of our bid response), we provide minimum and maximum staffing plans as outlined in Table 28. Staffing levels will vary as inspection demand requires and the. The facility manager, with input from the Operations Manager and/or Project Manager, will develop weekly and monthly schedules for staff members in their respective facilities.

[Opus' Quote, p. 212-216.]

The purpose of the draft plan was to ensure that a Bidder understood scope of work required for a successful implementation of the system, its operations and maintenance and support. If adjustments are later needed, those adjustments can be incorporated into the final CIF Staffing/Training Plan submitted to the State Contract Manager for review and approval, 30 days after the Contract effective date.

Additionally, Parsons questions Opus' proposal stating that the "price proposal is facially and materially unreasonable as it fails to account for the actual costs to perform the contract, including managerial, overhead and other administrative costs as well as the additional staffing costs." Parsons' protest, p. 30. Parsons again alleges that Opus is required to offer employment to the current workforce and further notes that if 51% of the current workforce accepts employment with Opus, Opus will be required to maintain the current level of wages and benefits.

With respect to staffing, Opus has committed to interviewing and offering employment to the current workforce who comply with Opus employment standards and policies. Opus Quote – *Staffing retention and recruitment*, p. 584. Opus has also committed to entering into discussions with SEIU Local 32BJ to discuss the program details. *Ibid.* As noted above, Opus is a Contractor providing inspection services to numerous other states, and in creating its Quote, Opus presumably was aware of the requirements of the Federal Labor laws and took those requirements into account in the creation of its Quote pricing. Further, in evaluating the Quote received, the Division is not evaluating pricing in terms of a Contractor's profitability. Rather, the Division evaluates Quotes to ensure that the Contract is awarded to that responsible Bidder whose Quote, conforming to the Bid Solicitation, is most advantageous to the State, price and other factors considered.

2. Opus' Quote with respect to the utilization of subcontractors conformed to the requirements of the Bid Solicitation.

Parsons alleges that Opus' Quote was non-responsive because Opus only identified two subcontractors in its Quote, whereas Parsons notes that it listed 33 subcontractors.

A Bidder's use of a subcontractor is governed by Bid Solicitation § 4.4.1.3 *Subcontractor Utilization Plan* which states in pertinent part

Vendors {Bidders} intending to use a Subcontractor shall submit a Subcontractor Utilization Plan form. . . .

NOTE: If the Blanket P.O. is a small business subcontracting set-aside, the Vendor {Bidder} certifies that in engaging Subcontractors, it shall make a good faith effort to achieve the subcontracting set-aside goals, and shall attach to the Subcontractor Utilization Plan documentation of such efforts in accordance with N.J.A.C. 17:13-4.1 et seq.

For a Quote that does NOT include the use of any Subcontractors, by signing the Bid Solicitation Offer and Acceptance Page, the Vendor {Bidder} is automatically certifying that in the event the award is granted to the Vendor's {Bidder's} firm and the Vendor {Bidder} later determines at any time during the term of the Blanket P.O. to engage Subcontractors to provide certain goods and/or services, pursuant to Section 5.8 of the SSTC, the Vendor {Bidder} shall submit a Subcontractor Utilization Plan form for approval to the Division in advance of any such engagement of Subcontractors.

This Bid Solicitation did contain a small business subcontracting set-aside component which required that:

If the Vendor {Bidder} intends to subcontract, it must submit a Subcontractor Utilization Plan and shall take the following actions to achieve the set-aside subcontracting goal requirements:

- A. Attempt to locate eligible small businesses in Categories I, II, III, IV, V, and/or VI as appropriate to the Bid Solicitation;
- B. Request a listing of New Jersey Small Business Enterprises and/or Disabled Veterans' Business from the New Jersey Division of Revenue and Enterprise Services, Small Business Registration and M/WBE Certification Services Unit;
- C. Record efforts to locate eligible businesses, including the names of businesses contacted and the means and results of such contacts;
- D. Provide all potential Subcontractors with detailed information regarding the specifications;
- E. Attempt, whenever possible, to negotiate prices with potential Subcontractors submitting higher than acceptable price Quotes;
- F. Obtain, in writing, the consent of any proposed Subcontractor to use its name in response to the Bid Solicitation; and
- G. Maintain adequate records documenting efforts to achieve the set-aside subcontracting goals.

[Bid Solicitation Section 4.4.1.6 *Small Business and/or Disabled Veterans Business Subcontracting Set-Aside Blanket P.O.*]

In its Quote, Opus stated:

Opus Inspection has made a good faith attempt at fulfilling the Small Business subcontracting targets by selecting two subcontractors from State database that will provide services to the Company if it is the successful bidder in the above referenced procurement.

Opus Inspection commits to continuing efforts to meet the goals set forth in the Bid Solicitation and maximize participation of small business registered in the State of New Jersey throughout the contract term.

[Opus Quote p. 28.]

Opus did submit the *Subcontractor Utilization Plan* form with its Quote which indicated that Opus intended to utilize two Small Businesses as subcontractors. Further, by signing the Bid Solicitation Offer and Acceptance Page, Opus certified that, in the event it determines that it needs to engage additional subcontractors, it would submit a Subcontractor Utilization Plan form for approval to the Division in advance of any such engagement, as is required by Bid Solicitation Section 4.4.1.3. The Bid Solicitation sets forth a procedure for the substitution or addition of subcontractors. As stated at Bid Solicitation § 5.7 *Substitution or Addition of Subcontractors*:²³

The Vendor {Contractor} may not subcontract other than as identified in the Vendor's {Contractor's} proposal without the prior written consent of the Director. The Vendor {Contractor} shall forward a written request to substitute or add a Subcontractor or to substitute its own staff for a Subcontractor to the State Contract Manager for consideration. If the State Contract Manager approves the request, the State Contract Manager will forward the request to the Director for final approval. No substituted or additional Subcontractors are authorized to begin work until the Vendor {Contractor} has received written approval from the Director.

If it becomes necessary for the Vendor {Contractor} to substitute a Subcontractor, add a Subcontractor, or substitute its own staff for a Subcontractor, the Vendor {Contractor} will identify the proposed new Subcontractor or staff member(s) and the work to be performed. The Vendor {Contractor} must provide detailed justification documenting the necessity for the substitution or addition.

²³ Similarly, The State of New Jersey Standard Terms and Conditions Section 5.8 *Subcontracting or Assignment* states that:

“[t]he contractor may not subcontract other than as identified in the contractor's proposal without the prior written consent of the Director. Such consent, if granted in part, shall not relieve the contractor of any of his/her responsibilities under the contract, nor shall it create privity of contract between the State and any subcontractor. If the contractor uses a subcontractor to fulfill any of its obligations, the contractor shall be responsible for the subcontractor's: (a) performance; (b) compliance with all of the terms and conditions of the contract; and (c) compliance with the requirements of all applicable laws.”

Parsons has not provided any facts to support its allegation that Opus cannot perform the contracted work aside from its own need to have numerous subcontractors. Even if Opus requires additional subcontractors to perform work under this contract, the Bid Solicitation contemplates that, and has a process in place for a Contractor to seek approval to add or change subcontractors.

3. Opus' proposal to distribute new equipment to inspection facilities conforms to the requirements of the Bid Solicitation.

Parsons alleges that Opus has planned to simply drop ship new equipment to the inspection facilities, not to provide any installation support or training on the use of the new equipment; and therefore, Opus' Quote should have been deemed non-responsive.

Bid Solicitation Section 3.13.1.2 *PIF and PFF Recruitment* states in part that "The Vendor {Contractor} must deliver and set up NGWorkstation(s) and provide end-user training on the NGWorkstation." Further, Bid Solicitation Section 3.13.1.3 *NGWorkstation Maintenance at POFs and PFFs* states in part:

- B. All PIFs and PFFs (which are not diesel opacity-only) will be required by the State to purchase NGWorkstations from the Vendor {Contractor} which the Vendor {Contractor} shall install. Prior to the installation of the new inspection equipment, the Vendor {Contractor} shall complete testing of the equipment using its State approved acceptance test procedures. The Vendor {Contractor} shall provide start-up assistance to the private facilities. Start-up assistance provided by the Vendor {Contractor} must include training on the operation of the new inspection equipment

In its Quote, with respect to the delivery and set-up of new equipment, Opus stated:

Schedule for completing installation

As soon as a PIF or PFF manager executes an agreement and orders the equipment, the facility will be scheduled for delivery. Delivery will be within 90 days of the date a PIF or PFF deposit for the equipment.

Installation consists of two steps:

- Equipment is shipped and delivered with instructions how to set-up the system, which is no more difficult than setting up a home PC or laptop; the system has its own set-up software. Once connected to the router and internet, the installation is confirmed in our system.
- When final software is ready, PIFs and PFFs will be instructed to connect their NGWorkstation to the NGVID, and the software will be loaded automatically. The NGWorkstation will not be useable until official activation authorization by the SCM.

All NGWorkstations will be delivered, set-up, and have final software loaded within 12 months of Blanket P.O. effective date. The actual PIF or

PFF schedule of NGWorkstation delivery and set-up is dependent on the facilities' agreement execution and equipment ordering.

Parsons alleges that the Bid Solicitation required that the awarded Contractor personally deliver, install and set-up the workstations, provide training onsite and provide start-up assistance to the PIF and PFF facilities. Parsons protest p. 37. Parsons argues that by not performing these tasks in-person, Opus's Quote is non-responsive to the requirements of the Bid Solicitation and that Opus' has saved significant money.

Parsons' interpretation of the requirements of Bid Solicitation is inaccurate. First, nothing in the Bid Solicitation requires that the NGWorkstations be personally delivered by the Contractor to the PIFs or the PFFs. Opus' proposal to ship the equipment to the PIF and PFFs conforms to the requirements of the Bid Solicitation. In fact, in its own PIF and PFF Support Plan, Parsons stated that it would ship the NGWorkstations. Parsons Quote p. 853. Second, the Bid Solicitation did not mandate that the Contractor provide on-site installation, set-up or training. Opus' proposal states that

The Opus team has all the resources required for PIFs and PFFs to order, take delivery of, and set-up equipment. For support, the Opus team will provide:

- Website for contract execution and equipment ordering;
- Help Desk for PIFs and PFFs to obtain support with questions or equipment issues; and
- Field service technicians to assist on-site as needed.

Opus already employs more than one hundred (100) experienced I/M equipment field service technicians in other jurisdictions. We are able to make this pool of resources available to PIFs and PFFs as needed to ensure all NGWorkstations are up and ready by startup date. Once a PIF or PFF requests assistance through the Help Desk, a text message will be sent to the responsible technician, who will contact the facility to arrange a visit. All requests for assistance, dispatch information, and service records will be retained in our Help Desk issue management system.

While the Bid Solicitation does require that the Contractor perform installation and start-up assistance, in these days of the increasing use of remote access work and where many have gained experience in providing remote support for business systems, Opus' proposal that these services be provided remotely through a help desk and then on-site if requested, complies with the requirements of the Bid Solicitation.

4. Opus' proposed retrofit plan was contrary to the requirements of the Bid Solicitation.

Finally, in its protest, Parsons refers to Bid Solicitation Section 3.13.4 *Transition, Retrofit, Operations and Management Plan* which states:

The Vendor {Contractor} must, in its Transition, Retrofit, Operations, and Management Plan, identify all tasks to be performed at each CIF and establish a timeline for the completion of those tasks. The Vendor's {Contractor's} plan shall include:

- A. Identification of all inspection facilities to be retrofitted;
- B. The number of proposed lanes and positions to be utilized at each facility (retrofitted lanes). The Vendor {Contractor} shall demonstrate that its network design and lane configuration meets the customer

- convenience requirements, Wait Time standards, and the technical requirements of this Bid Solicitation;
- C. The inspection tasks to be performed at each lane/position under the new program and the sequence of events in conducting the inspection;
 - D. The minimum staffing for typical periods throughout the work day and month, as well as staffing for periods of maximum throughput;
 - E. Exterior site work to be performed at each site;
 - F. A work plan for closing certain lanes (and/or facilities) during construction, quality control measures, and a date for the completion of each phase;
 - G. The scope of work at each particular facility, including a drawing, which consists of a block diagram and sketch plan and identifies the work to be performed at each facility; and
 - H. The Vendor {Contractor} shall be responsible for all costs associated with transitioning the CIFs to the new inspection program.

Parsons claims that Opus' draft plans for Transition, Retrofit, Operations and Management did not provide the detail required by the Bid Solicitation; and therefore, Opus' Quote should have been deemed non-responsive.²⁴

In reviewing Opus' Quote, the Evaluation Committee conclude that "Opus submitted all draft plans required by Bid Solicitation 4.4.3.3.6 *Plans Summary*. The Committed reviewed and discussed all draft plans, and agreed that Opus met all requirements on the plans." Evaluation Committee Report, p. 15.

Thus, again Parsons seeks to substitute its judgment for that of the evaluation committee, which is simply a basis to overturn an award decision. Nonetheless, to ensure that the evaluation committee's decision was based on information in Opus's Quote, the Hearing Unit undertook review of Opus' Quote and confirmed that Opus submitted all required draft plans.

The requirements set forth in Bid Solicitation Section 3.0 *Scope of Work – Requirements of the Vendor {Contractor}*, are, as the title indicates, requirements place in the Contractor – the entity award the contract resulting from the Bid Solicitation. These are not requirements placed on the Bidder – the entity offering a Quote in response to the Bid Solicitation. Therefore, to the extent that Opus' draft plans submitted with the Quote do not contain the level of detail set forth in Bid Solicitation Section 3.13.4 is of no consequence, as the awarded Contractor must submit the required plans to the State Contract Manager for review and approval 30 days after Contract award in accordance with Bid Solicitation Section 3.52.1 *NGSystem Plans, Manuals, and Specifications Summary* which stated:

The Vendor {Contractor} shall ensure that each final plan, manual, and specification created and provided to the SCM in the required timeframe noted below will cover the necessary level of breadth and depth for each topic. Each plan, manual, and specification is described in detail within the section of this Bid Solicitation relevant to the topic. Refer to Plan Summary in Section 4.4.3.3.6 of this Bid Solicitation for draft plan requirements due at the time of Quote submission.

As it related to the submission of draft plans, Bid Solicitation 4.4.3.3.6 *Plans Summary* stated

²⁴ Notably Parsons has not alleged any of the required drafts was missing.

The following Plan Summary details the draft plan versions due at the time of Quote submission. Draft plans are a mandatory Quote submission requirement. The plans should demonstrate that the Vendor {Bidder} understands the scope of work required for a successful implementation of the system, its operations and maintenance and support.

Accordingly, while draft plans were required to be submitted with the Quote, the level of detail required in the draft plan was not identical to that required to be submitted by the Contractor to the State Contract Manager after award and ultimately put into place. Rather, the Bidder was required to submit information to demonstrate to the Evaluation Committee that the Bidder understood the scope of work required for a successful implementation of the system, its operations and maintenance and support. Opus did that, and in fact, the Evaluation Committee's Report discusses at length Opus' 49 page draft plan for retrofitting the inspection facilities.

By way of summary, I note that Opus' draft plan included the following responses:

For the draft plan response to Section 3.13.4 (A) Opus stated in part:

The Opus team will retrofit all 25 CIFs and three (3) SIFs in the network, including each of the 95 CIF lanes in the network that are currently available for testing. There are 107 lanes in the facilities; however, twelve (12) are not currently in service and will be used for storage and equipment shipping, receiving, and legacy equipment removal. We will not retrofit those lanes with new inspection equipment; however, if there is a future need for additional operational lanes, we will retrofit them and utilize these lanes for testing.

Each facility will be retrofitted as specified in Table 11.

[Opus' Quote p. 153.]

For the draft plan response to Section 3.13.4 (B) and (C) Opus stated in part:

The current test lane and test position configurations—inspector positions 1, 2, and 3—will remain unchanged, even with installation of new OBD equipment. The new NGWorkstations with the revised testing procedure will improve throughput (described below). Figure 9 shows the layout of the typical lane after retrofitting.

[Opus' Quote p. 156.]

For the draft plan response to Section 3.13.4 (D) Opus stated in part:

The Opus team conducted a thorough staffing analysis for this project, which is detailed in bid response Section 2.4.13.4. That results of that analysis indicated we can operate the program within the following range:

- Minimum staffing level: 223 personnel, including 152 inspectors
- Maximum staffing level: 271 personnel, including 200 inspectors.

The range is dependent on inspection efficiencies gained through new technology and processes. More than 80% of the staff will be full-time

employees. The staffing summary and positions assigned are shown in Table 10 below...

[Opus' Quote p. 152.]

For the draft plan response to Section 3.13.4 (E) Opus stated in part:

Part Three: Facility improvements

Exterior site work

We propose to use Automatic License Plate Readers (ALPR) near the ticket gate at each facility, or entrance lane if no ticket gate is in use. We will pull electrical supply from the ticket gate or run a line from the facility to the ALPR as needed.

Opus team members will maintain the facilities and provide capital upgrades as mutually agreed during implementation and operations. The general approach and details for proposed capital improvements will be included in the CIF Capital Project Plan, which will be submitted to the SCM within 90 days of Blanket P.O. effective date.

[Opus' Quote p. 161.]

For the draft plan response to Section 3.13.4 (F) Opus stated in part:

The full Draft Project Schedule can be reviewed in bid response Section 2.3.1 *Blanket P.O. Schedule*. For convenience, we include here a condensed, high-level overview of the CIF/SIF retrofit plan, including schedules and tasks for:

Site/facility preparation;

- Equipment installation;
- Site/facility ATP; and,
- Legacy equipment removal.

We will divide and group the facilities into three (3) regional areas and dedicate personnel and resources to each of the groups so that all three retrofit groups can occur in parallel time, speeding up overall construction and reducing downtime for the facilities and lanes.

[Opus' Quote pgs. 156-157.]

For the draft plan response to Section 3.13.4 (G) Opus stated in part:

Our approach for building interior work required to support the above equipment installations includes the following procedures:

- Before any building interior work begins, we will provide the SCM with detailed drawings and equipment lists for every facility location. Upon SCM approval we will ensure that all required permits are procured before our construction and installation teams mobilize.
- Construction teams will install electrical rough-ins, cable rough-ins, and equipment cabinets in a manner that will locate new

equipment side-by-side with legacy systems. Final electrical and cable terminations will also be completed at this time.

- Installation teams will deliver and install new equipment and perform a complete integration and QA check to ensure all required equipment is present and functioning properly. At this time the site will be for installation of NGWorkstations and ATPs.

Draft copies of facility, lane, and site drawings are included at the end of this Plan. The drawing in Figure 12 shows an example of the retrofitted lanes for Bakers Basin and represents the typical facility layout for all CIFs, though the lane count is different depending on the size of the facility.

[Opus' Quote p. 169.]

For the draft plan response to Section 3.13.4 (H) Opus stated: "We will be responsible for all costs associated with transitioning the CIFs to the new inspection program." Opus' Quote p. 169.

Set forth above is a brief summary of the details contained in Opus' draft *Transition, Retrofit, Operations and Management Plan*. Opus' Quote response and the draft plan contained a response covering each of the specific aspects of the plan as requested in the Bid Solicitation and a level of detail necessary to assure the Evaluation Committee comprised of experts from the Division, MVC and DEP that Opus understood the scope of work required for a successful implementation of the system, its operations and maintenance and support. Based upon the Hearing Unit's independent review of the Bid Solicitation and the Quote, I have no reason to overturn the Evaluation Committee's determination.

CONCLUSION

Based upon the foregoing, I find no reason to disturb the Bureau's recommendation that the Contract be awarded to Opus. Accordingly, I sustain the December 21, 2021, Notice of Intent to Award. This is my final agency decision.

Thank you for your company's interest in doing business with the State of New Jersey. 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.

Sincerely,



Maurice A. Griffin
Acting Director

MAG: RUD

c: M. Dunn
J. Pastuzyn
J. Borek, Esq.