



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR
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Telephone (609) 292-4886 / Facsimile (609) 984-2575

November 24, 2014

Via Fax [201-393-9005] and USPS Regular Mail

Seema Mahbubani, President
Paper Clips, Inc.
P.O. Box 402
Wood-Ridge, NJ 07075

RE: Request for Eligibility to Participate in Competition for Contract T0052
RFP #15-X-23609 – *Office Supplies & Recycled Copy Paper - Statewide*

Dear Ms. Mahbubani:

This letter is in response to your letter dated November 21, 2014, on behalf of Paper Clips, Inc. (“PCI”), by which you express interest in competing for the award of the subject term contract, notwithstanding the fact that PCI was not represented at the pre-proposal conference conducted on October 2, 2014 by the Procurement Bureau, the unit of the Division of Purchase and Property (“Division”) which conducts advertised, competitive procurements of State contracts. Acknowledging that attendance of the conference was required in order for bidders to be eligible to participate in the competition, you advise that PCI’s absence was the result of a health-related circumstance that precluded your planned attendance. Nearly seven weeks after the conference, you request that the mandatory eligibility requirement be waived for your firm.

I have considered your request within the context of the administrative rules that govern competitive contract procurements conducted by the Procurement Bureau, particularly N.J.A.C. 17:12-2.2(a), which specifies that a bidder’s proposal must, in order to be eligible for consideration for award of contract:

7. Be preceded by the bidder’s attendance and registration at any pre-bid conference and/or site inspection for which attendance and registration is mandatory. However, the Director reserves the right to waive this requirement upon terms the Director deems acceptable, if doing so is in the State’s best interest.

The record indicates that the public notice of the opportunity to compete for the T0052 contract, which occurred by advertisement in the Star Ledger newspaper and by announcement on the Division’s website, included clear mention of the October 2, 2014 date of the mandatory pre-

proposal conference. The Division's website notice provided interested vendors with access to the subject Request for Proposal ("RFP"), by which they could familiarize themselves with the bidding and contracting requirements, pose questions or concerns as part of the RFP-defined electronic Question and Answer process, make arrangements to attend the mandated pre-proposal event and then complete the preparation of their proposals.

With all competitive procurements, the Procurement Bureau determines whether a pre-proposal conference and/or a site visit is to be conducted and, if so, whether attendance of the conference and/or site visit will be mandatory or optional. When deemed essential, product/service providers interested in competing for the subject State contract are required to attend the pre-proposal conference or site visit in order to ensure that there is the opportunity for an exchange of information between the State and the attending vendors relative to the proposal process and requirements and the scope of products/services comprising the contract. In this case, the Procurement Bureau determined that, because there are many substantive differences between the subject RFP/Contract now being procured vis-a-vis the expiring M0052 cooperative procurement contract and past T0052 contracts as well as other states' contracts, interactive participation by vendors and State representatives was vital to the conduct of an effective competition and, thereafter, to compliant contract performance. As a result, RFP Paragraph 1.3.5, *Mandatory Pre-Proposal Conference*, advised interested vendors as follows:

1.3.5 MANDATORY PRE-PROPOSAL CONFERENCE

The Procurement Bureau will have a Mandatory Pre-Proposal Conference to accept questions from vendors regarding this RFP, however, potential Bidders are strongly encouraged to submit their questions prior to the Pre-Proposal Conference.

The date and time of the Mandatory Pre-Proposal Conference is indicated on the cover sheet. The location of the Mandatory Pre-Proposal Conference will be:

Department of [the] Treasury
Procurement Bureau – 9th Floor Bid Room
33 West State Street
Trenton, NJ 08625

Proposals from any bidder that was not represented or failed to properly register and attend [sic] the Mandatory Pre-Proposal Conference will be automatically rejected.

An attendee may represent ONLY one potential bidding entity.

While empathic about the circumstances that PCI sets forth as the reason for its non-attendance of the pre-proposal conference, I am mindful of the requirement for vendor representation as deemed essential by the Procurement Bureau. To allow a vendor who was not represented at the mandatory meeting, and thus did not share in the give-and-take discussions to be eligible to participate in the competition for the award of contract would not, in my judgment, serve the State's best interests since it would adversely affect the equal footing standard for attending vendors and potentially diminish the State's assurance of contract performance. In light of these concerns, having achieved a satisfactory representation of the product/service provider community, and in

Seema Mahbubani, President
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acknowledgement of the successful efforts of those vendors represented at the mandatory event, I must deny your request for eligibility to participate in the bidding of the subject contract. This is my final agency decision on this matter.

I look forward to PCI's participation in future bidding opportunities offered by the Division on behalf of agencies of the State of New Jersey. If these or similar circumstances were to recur, I encourage you to consider sending a substitute representative to the mandatory conference or site visit to ensure your eligibility to participate in the competition. Thank you for registering your business entity with **NJ START** at www.njstart.gov, the State of New Jersey's soon-to-be-launched eProcurement system.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ronald G. Wengerd', with a stylized flourish at the end.

Ronald G. Wengerd
Chief Hearing Officer

c: R. Sharbaugh
J. Signoretta
A.M. Wiedemann
D. Rodriguez/A. Nelson