



## 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

June 21, 2016

Via Fax [856-437-2730] and USPS Regular Mail

Brad Strauss, Account Manager  
Honeywell Building Solutions  
534 Fellowship Road  
Mt. Laurel, NJ 08033

RE: Protest of Notice of Intent to Award State Contract #T2947  
RFP # 14-X-23240 – HVAC Computerized System Maintenance & Repair Services

Dear Mr. Strauss:

This final agency decision letter is in response to your undated letter faxed to this office on June 24, 2014, referring to the subject Request for Proposal (“RFP”) and taking exception to the Division of Purchase and Property’s (Division) Procurement Bureau’s (Bureau) Notice of Intent to Award (NOI) individual segments of the subject contract to three responsible bidders. On behalf of Honeywell Building Solutions (HBS), and acknowledging that HBS did not challenge the subject RFP in timely fashion or submit a proposal in response to the RFP, you have asserted that the RFP should not have included the War Memorial, the State House Annex and the State House Garage facilities as three of the 17 State-owned facilities to be serviced under the terms of the subject RFP’s scope of work. In support of your position, you cite software licensing agreements between the New Jersey State Building Authority (NJSBA) and HBS covering the Honeywell HVAC systems which HBS installed in those facilities under a waiver contract. More specifically, you contend that the RFP’s scope of work requirement that the contractor(s) must have “a signed software licensing agreement and capability to remotely access the system for technical support” precludes the named contract awardees from eligibility to offer their services since only HBS can meet that requirement, notwithstanding slated awardees’ claims to the contrary.

In the process of reviewing the record of this procurement relative to the issue presented in your letter (as well as to points of protest presented in another challenge of the slated awards timely filed by CM3 Building Solutions, Inc.), the Division’s Hearing Unit conducted fact-finding which included a review of the record as well as inquires of the assigned Division procurement specialist, officials representing the Department of the Treasury’s Division of Property Management and Construction (DPMC) and select on-site maintenance personnel at the facilities intended to be covered by these contracts. That fact-finding revealed that the RFP required contract awardees to have “software licensing agreements” from the various manufacturers but did not required the bidders to provide proof of their possession of those specific manufacturer-controlled authorizations. During these interactions with various agency maintenance personnel on this matter, your concerns as well as other issues, were raised by another protester. Based upon these and other concerns, DPMC management requested that the Division cancel the procurement and rescind the slated awards of contracts so that DPMC can engage an engineering consultant to perform a comprehensive assessment of the

computerized HVAC systems of the State-owned facilities before proceeding with an open competitive procurement of a maintenance and repair services contract for these facilities.

In consideration of the request by DPMC officials to cancel this procurement and the issue of software licensing authorization required to perform the full range of maintenance required by the RFP Section 3, *Scope of Work*, the Director of the Division determined that the State's best interests are served by cancellation of the subject procurement so that essential, preliminary, fact-finding assessments of the maintenance requirements of all 17 State-owned facilities named in this procurement can be completed.

In light of the information outlined above, the Bureau has canceled this solicitation. In light of the Bureau's cancellation of this procurement, I find that HBS's protest points outlined in its June 24 letter are now moot and need not be addressed at this time. This is my final agency decision on this matter.

Anticipating HBS's continued interest in doing business with the State of New Jersey, I invite you to take this opportunity to register your business entity with ~~NJSTART~~ at [www.njstart.gov](http://www.njstart.gov), the State of New Jersey's eProcurement system, which went live on June 20, 2016.

Sincerely,



Maurice A. Griffin  
Chief Hearing Officer

- c: S. Sutkin  
G. Bocage  
G. Carr  
G. Olivera  
K. Woolford  
L. Spildener