



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR  
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Lt. Governor

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JIGNASA DESAI-MCCLEARY  
Director

October 11, 2016

Via Electronic Mail [cchaffee@thecaviartgroup.com] and USPS Regular Mail

Clarence Chaffee, President  
The Caviart Group, LLC  
9556 Pine Cluster Circle  
Vienna, VA 22181

Re: Protest of Notice of Proposal Rejection  
Bid Solicitation {Request for Proposal} #17DPP00048  
LSRP Examination Dev. & Administration

Dear Mr. Chaffee:

This letter is in response to your correspondence of October 7, 2016, on behalf of the Caviart Group, LLC (Caviart), to the New Jersey Department of Environmental Protection (DEP) which was forwarded to the Hearing Unit of the Division of Purchase and Property (Division). In that correspondence Caviart requests that the Division reconsider its October 5, 2016 final agency decision which upheld the Division's Proposal Review Unit's Notice of Proposal Rejection.

In consideration of Caviart's request for reconsideration, I have reviewed the record of this procurement, including the Bid Solicitation ({Request for Proposal} (RFP)), Caviart's proposal, relevant statutes, regulations, and case law. This review of the record has provided me with the information necessary to determine the facts of this matter and to render an informed determination on the merits of Caviart's request for reconsideration.

By way of background, the Division's Procurement Bureau (Bureau) issued the subject RFP on behalf of the New Jersey Site Remediation Professional Licensing Board to solicit Quotes {Proposals} from qualified bidders to review, update and administer a licensure examination for individuals applying for a Site Remediation Professional License. RFP § 1.1 *Purpose and Intent*. The intent of the RFP "is to award a Master Blanket Purchase Order (Blanket P.O.) {Contract} to that responsible Vendor {Bidder} whose Quote {Proposal}, conforming to this Bid Solicitation {RFP} is most advantageous to the State, price and other factors considered. The State may award any and all price lines." *Ibid*. On September 14, 2016, the Proposal Review Unit opened proposals received by the submission deadline of 2:00 p.m. The record of this procurement reveals that Caviart's proposal was rejected for failing to sign the *Disclosure of Investment Activities in Iran* form.

On September 26, 2016, in response to the Notice of Proposal Rejection, Caviart filed a protest with the Division's Hearing Unit. On October 5, 2016 the Division issued its final agency decision upholding the Notice of Proposal Rejection based upon Caviart's submission of an unsigned *Disclosure of Investment Activities in Iran* form with its proposal. In that decision, the Division held that it does not have the power to waive a legislative requirement that a bidder certify at the time of proposal submission that it is not engaged in certain prohibited activities in Iran as set forth in N.J.S.A. 52:32-58. Therefore,

the Division had no choice but to deny Caviart's request for eligibility to participate in the competition for the subject contract.

On October 7, 2016, Caviart submitted a request for reconsideration. In support of its position that all of the submitted documents were signed, Caviart stated:

We have a copy of the document submitted with a date stamp of last modified of 9/13 – which is prior to the submission of the bids – see below. We have previously forwarded this document to the department as an attachment to an email and the department has confirmed that they received this copy and that it has a signature.

Name	Date modified
AA_Supplement.pdf	9/13/2016 7:05
Bid 17DPP00048 - Volume 2 Technical Quote and Orga...	9/14/2016 8:44
Bid 17DPP00048 Volume 1 - Forms.pdf	9/14/2016 8:41
Bid 17DPP00048 Volume 3 - Price.pdf	9/14/2016 8:42
Business Registration.pdf	9/13/2016 7:06
Chapter51 completed2.pdf	9/13/2016 4:00
DisclosureofInvestmentActivitiesinIran completed.pdf	9/13/2016 3:28
OfferandAcceptance-completed.pdf	9/12/2016 7:43
OwnershipFinal12-14-completed.2pdf.pdf	9/13/2016 3:31
Price Lines T2702 7-18-16 (1).xlsx	9/13/2016 7:09
SourceDisclosureCertification.pdf	9/13/2016 3:49

Moreover, with the request for reconsideration Caviart stated:

We submitted all of our documents through the NJSTART system as we were instructed to do in the RFP. We were concerned however that there might be a technical glitch in the system given the number of forms submitted and the fact that this is a new system. To ensure that all of our documents were in fact received, we added an additional document specifically listing each document submitted and stating that each document was "completed and signed". This document was titled "Response to Request for Proposal Bid # 17DPP00048 Board Licensed Site Remediation Professional (LSRP) Examination Development Update and Administration Volume 1 – Forms." The text below is from that document confirming our NJSTART submission.

**Forms:**

The following completed and signed forms have been uploaded to the NJSTART system as file attachments:

1. Offer and Acceptance
2. Disclosure of Investment Activities in Iran - Full Version
3. Ownership Disclosure - Full Version PDF
4. Disclosure of Investigations and Other Actions Involving Bidder - Full Version
5. Source Disclosure
6. Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of
7. Political Contributions
8. Affirmative Action Employee Information Report (Form AA302)
9. Business Registration Certificate

A review of *NJSTART* reveals that while Caviart's proposal was submitted on September 14, 2016, various forms and documents were uploaded on September 13, 2016. In connection with this request for reconsideration, the Hearing Unit has undertaken a review of all of the documents attached to Caviart's Quote {Proposal}. The uploaded files were as follows:

Name	Description	Submitted	Attached By	Attached Date
Offer and Acceptance			Robert J. Jaffe	09/13/2016
Disclosure of Investment Activities in Iran			Robert J. Jaffe	09/13/2016
Ownership Disclosure - Full Version			Robert J. Jaffe	09/13/2016
Disclosure of Investigations and Other Actions Involving Bidder - Full Version			Robert J. Jaffe	09/13/2016
Source Disclosure			Robert J. Jaffe	09/13/2016
Two-Year Chapter 51/Executive Order 117			Robert J. Jaffe	09/13/2016
Affirmative Action Employee Information Report (Form AA302)			Robert J. Jaffe	09/13/2016
Business Registration			Robert J. Jaffe	09/13/2016
Offer Memo			Robert J. Jaffe	09/13/2016
Volume 1 - Jaffe			Robert J. Jaffe	09/14/2016
Volume 2 - Jaffe			Robert J. Jaffe	09/14/2016
Volume 3 - Jaffe			Robert J. Jaffe	09/14/2016

While Caviart did upload a completed *Disclosure of Investment Activities in Iran* form to *NJSTART*, the form did not contain either a physical or typed signature. See Caviart's submitted form below with the blank signature line highlighted.<sup>1</sup>

<sup>1</sup> Caviart is able to log into its *NJSTART* account and review the documents that were attached and submitted as part of the Quote {Proposal} in response to this solicitation.

**STATE OF NEW JERSEY – DIVISION OF PURCHASE AND PROPERTY  
DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN**

Quote Number: \_\_\_\_\_ Bidder/Owner: \_\_\_\_\_

**PART 1: CERTIFICATION  
BIDDERS MUST COMPLETE PART 1 BY CHECKING EITHER BOX  
FAILURE TO CHECK ONE OF THE BOXES WILL RENDER THE PROPOSAL NON-RESPONSIVE**

Pursuant to Public Law 2012, c. 25, any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract must complete the certification below to affirm an absence of activity that neither the person or entity, nor any of its parents, subsidiaries, or affiliates is identified on the Department of Treasury's Chapter 25 list as a person or entity engaging in investment activities in Iran. Chapter 25 is located on the Division's website at: <http://www.treasury.state.nj.us/chapter25list.htm>. Bidders must review this list prior to completing the bid certification. Failure to complete the certification will render a bidder's proposal non-responsive. If the Director finds a person or entity to be in violation of law, the State shall take action as may be appropriate and provided by law, including but not limited to: (1) taking legal action, seeking complete recovery of damages, declaring the party in default and seeking remedies as provided by law.

**PLEASE CHECK THE APPROPRIATE BOX:**

I certify, pursuant to Public Law 2012, c. 25, that neither the bidder listed above nor any of the bidder's parents, subsidiaries, or affiliates is listed on the N.J. Department of Treasury's Chapter 25 list as a person or entity engaging in investment activities in Iran pursuant to P.L. 2012, c. 25. Chapter 25 list as I further certify that I am the person, sole owner, or an authorized representative of the entity, sole owner and authorized to make this certification on behalf of it. I will skip Part 2 and sign and complete the Certification below.

**OR**

I am unable to certify as above because the bidder and/or one or more of its parents, subsidiaries, or affiliates is listed on the Department's Chapter 25 list. I will provide a detailed, accurate and precise description of the activities in Part 2 below and sign and complete the Certification below. <http://www.treasury.state.nj.us/chapter25list.htm>. This information shall be accessible to the public.

**PART 2: PLEASE PROVIDE FURTHER INFORMATION RELATED TO INVESTMENT ACTIVITIES IN IRAN**

PLEASE PROVIDE A DETAILED, ACCURATE AND PRECISE DESCRIPTION OF THE ACTIVITIES ABOVE LISTED BY PERSON, ENTITY, OR ONE OF ITS PARENTS, SUBSIDIARIES, OR AFFILIATES IN THE INVESTMENT ACTIVITIES IN IRAN OUTLINE PROVIDED FOR MODEL BY THE CHECKS TO THE RIGHT.

**EACH BOX WILL PROMPT YOU TO PROVIDE INFORMATION RELATIVE TO THE ABOVE QUESTIONS. PLEASE PROVIDE THOROUGH ANSWERS TO EACH QUESTION. IF YOU NEED TO MAKE ADDITIONAL ENTRIES, CLICK THE "ADD AN ADDITIONAL ACTIVITIES ENTRY" BUTTON.**

Name _____	Relationship to Bidder/Owner _____
Description of Activities _____	
Duration of Engagement _____ Actual End Calendar Date _____	
Bidder/Owner Contact Name _____	Contact Phone Number _____

**ADD AN ADDITIONAL ACTIVITIES ENTRY**

Certification: I, being duly sworn upon my oath, hereby represent that the foregoing information and any attachments thereto to the best of my knowledge are true and complete to the best of my knowledge. I am authorized to execute this certification on behalf of the bidder, that the State of New Jersey is relying on the information contained herein and that I am under a continuing obligation from the date of the certification through the completion of any contracts with the State to notify the State in writing of any changes to the information contained herein. I do not agree that it is a criminal offense to make a false statement or misrepresentation in this certification, and I do so as I am bound to criminal prosecution under the law and that it is not considered a material breach of my agreement(s) with the State, permitting the State to declare any contract(s) null and void.

Full Name (Print): Clarence L. Chaffee Signature: \_\_\_\_\_  
Do Not Enter PIN as a Signature

Title: President Date: 9/12/2016

As previously noted, the requirement to certify that a bidder is not engaged in certain prohibited activities in Iran is set forth in N.J.S.A. 52:32-58. The New Jersey Legislature, in implementing N.J.S.A. 52:32-58, mandated requirements that a bidder must comply with in order to enter into a contract with the State. N.J.S.A. 52:32-58 states:

- a. A State agency shall require a person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract to certify, at the time the bid is submitted or contract is renewed, that the person or entity is not identified on a list created pursuant to subsection b. of section 3 of the act as a person or entity engaging in investment activities in Iran described in subsection f. of section 2 of this act.
- b. The certification required shall be executed on behalf of the applicable person or entity by an authorized officer or representative of the person or entity.

[Emphasis added.]

Because Caviart submitted its proposal without the *Disclosure of Investment Activities in Iran* form being signed, it was not in compliance with the Legislative requirement that mandates that a bidder certify at the time of bid submission that it is not engaged in investment activities in Iran. As noted in my previous final agency decision on this matter, the Division does not have the power to waive this legislative

requirement, as only the New Jersey Legislature can change a requirement it has mandated. While the Division provides to the bidding community the *Disclosure of Investment Activities in Iran* form to be completed and signed in order for bidders to comply with the statutory requirements, here, unfortunately, the signature line on the submitted form was left blank. The deficiency at issue cannot be remedied after the proposal submission deadline as acceptance of Caviart's proposal under these circumstances would be contrary to the provisions of the governing statute and provide Caviart with disclamation options not available to those bidders whose proposals were fully responsive.

In light of the finding set forth above, I deny Caviart's request for reconsideration that it be deemed eligible to participate in the competition for the subject contract. This is the Division's final agency decision on this matter. I regret this unfortunate situation and appreciate the time and effort Caviart put forth in preparing and submitting its proposal. Thank you for your interest in doing business with the State of New Jersey and for registering your company with **NJSTART** at [www.njstart.gov](http://www.njstart.gov), the State of New Jersey's new eProcurement system.

Sincerely,



Maurice A. Griffin  
Chief Hearing Officer

MAG: RUD

c: P. Michaels  
L. Spildener