



# State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
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March 21, 2016

Via Electronic Mail [[israelofgod12@yahoo.com](mailto:israelofgod12@yahoo.com)] and USPS Regular Mail

Israel Jimoh, CEO  
El Hidden Treasures & Wealth  
22 Bromley Court  
Atco, NJ 08004

RE: Protest of Notice of Proposal Rejection  
RFP #16-X-24096 Learning Management System Civil Service Commission

Dear Mr. Jimoh:

This letter is in response to your facsimile dated and received March 16, 2016, regarding the subject Request for Proposal (RFP) and the proposal submitted by El Hidden Treasures & Wealth, LLC (Hidden Treasure) to the Procurement Bureau (Bureau) of the Division of Purchase and Property (Division). The record of this procurement shows that Hidden Treasure's proposal was rejected for failing to include an *Ownership Disclosure Form* and *Disclosure of Investment Activities in Iran Form* and for failing to properly complete the *Signatory Page*. Although Hidden Treasure did not include a formal written letter of protest<sup>1</sup> with its facsimile, the Division accepts the correspondence as protesting the rejection of Hidden Treasure's proposal and a request to accept completed forms included with the facsimile.

I have reviewed the record of this procurement, including the RFP, Hidden Treasure's proposal, and 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 determination on the merits of Hidden Treasure's protest.

By way of the background, the subject RFP was issued by the Bureau on behalf of the Civil Service Commission "to solicit proposals for a Learning Management System that is intended to provide management and administration of training activities for various employee and client populations including course registrations, scheduling, tracking, and reporting for all online and instructor led training." RFP § 1.1 *Purpose and Intent*. The intent of the RFP is "to award a contract to that responsible bidder whose proposal, conforming to [the] RFP are most advantageous to the State, price and other factors considered." *Ibid*.

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<sup>1</sup> "[A] bidder, having submitted a proposal in response to an advertised RFP administered pursuant to N.J.S.A. 52:34-6 et seq., may submit a written protest to the Director" that sets forth "in detail, the specific grounds for challenging the rejection of its proposal . . ." N.J.A.C. 17:12-3.3(a)-(b). Please note the Division's administrative rules governing its procurement programs are set forth in N.J.A.C. 17:12. These rules can be accessed at <https://www.state.nj.us/treasury/purchase/AdminCode.shtml>.

The above-referenced solicitation was comprised of the RFP and other documents, one of which was the three-part document titled *NJ Standard RFP Forms*. This document includes the *Ownership Disclosure Form* and *Disclosure of Investment Activities in Iran Form*. These *NJ Standard RFP Forms* are addressed in RFP Section 4.0 *Proposal Preparation and Submission*, which reads as follows:

#### **4.4.1.2 NJ STANDARD RFP FORMS**

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

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

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

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

#### **4.4.1.2.1 OWNERSHIP DISCLOSURE FORM**

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

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

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

[(Emphasis in original.)]

Concerning the requirement to submit a fully executed *Signatory Page*, the RFP provided the following:

#### **4.4.1.1 SIGNATORY PAGE**

The Bidder shall complete, including signature of an authorized representative of the Bidder, and submit the Signatory Page accompanying this RFP. If the Bidder is a limited partnership, the Signatory Page must be signed by a general partner. If the Bidder is a joint venture, the Signatory Page must be signed by a principal of each party to the joint venture. Failure to comply will result in rejection of the proposal.

**Note: A bidder's written signature on the Signatory Page, or entry of a Personal Identification Number (PIN) if using the eBid system, shall not serve as a certifying signature on the forms comprising the NJ STANDARD RFP FORMS document. (See 4.4.1.2)**

Furthermore, as a courtesy to all bidders, the Division provided a Proposal Checklist as an accompaniment to the RFP. The Checklist included the following:

#### **FORMS THAT MUST BE SUBMITTED WITH YOUR PROPOSAL:**

- RFP Signatory Page with physical signature or PIN (PIN is for eBid submission ONLY)
- Completed Price Sheets as instructed in Section 4.4.5 of the RFP
- Completed and signed Ownership Disclosure Form\*
- Completed and signed Disclosure of Investments in Iran Form\*

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*\* The Ownership Disclosure, Disclosure of Investigations and Other Actions Involving Bidder, and the Disclosure of Investments in Iran forms MUST each contain either a physical or typed signature (typed signatures are only acceptable for eBid submissions). . . .*

Pursuant to N.J.A.C. 17:12-2.2, a bidder's proposal must "[c]ontain all RFP-required certifications, forms, and attachments, completed and signed as required" or "be subject to automatic rejection." As set forth in RFP 4.4.1.2, 4.4.1.2.1, and 4.4.1.2.2, the submission of a completed and signed *Ownership Disclosure Form* prior to or as part of the proposal and a completed and signed *Disclosure of Investment Activities in Iran* form as part of a bidder's proposal was required. The requirement to submit a properly completed *Signatory Page* was set forth in RFP Section 4.4.1.1.

In this case, the record reveals that Hidden Treasure submitted an electronic proposal by the submission deadline of February 26, 2016. Regrettably, Hidden Treasure's proposal failed to include an *Ownership Disclosure Form* or *Disclosure of Investment Activities in Iran* Form. Although Hidden Treasure did upload a *Signatory Page*, this form was left blank and neither signed nor completed.<sup>2</sup>

Notwithstanding Hidden Treasure's request that the Division accept these completed forms after the proposal submission deadline, it would not be in the State's best interests to allow a bidder who did not provide the required information to be eligible to participate in the procurement process. Such acceptance would unlevel the bidders' playing field, as the State received responsive proposals in which all necessary documents and information were provided as required. The deficiency at issue cannot be remedied after the proposal submission deadline, as acceptance of Hidden Treasure's proposal under these circumstances would be contrary to the provisions of governing statutes and would provide Hidden Treasure with disclamation options not available to those bidders whose proposals were fully responsive. In light of the findings set forth above, I must deny your request for eligibility to participate in the competition for the subject contract. This is my final agency decision on this matter.

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<sup>2</sup> I also note, although not a cause for automatic proposal rejection, Hidden Treasure's electronic proposal included a blank *Source Disclosure Form*, blank *Cooperative Purchasing Form*, and partially completed *Pricing Sheet*.

This is an unfortunate situation for the State, as the Division encourages competition and appreciates the time and effort put forth in preparing and submitting Hidden Treasure's proposal. Thank you for registering your business with **NJ START** at [www.njstart.gov](http://www.njstart.gov), the State of New Jersey's new eProcurement system.

Sincerely,

A handwritten signature in blue ink, appearing to read "magriff", with a horizontal line extending to the right.

Maurice Griffin  
Chief Hearing Officer

MG:DF

c: G. Olivera  
J. Strype  
G. Buddie  
A. Nelson