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DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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April 8, 2016

Via Electronic Mail [phyllisviola@turf-equipment.com] and USPS Regular Mail

Phyllis C. Viola, Commercial Sales Coordinator
Turf Equipment and Supply Co. Inc.
576 Rosedale Rd., Suite #8
Kennett Square, PA 19348

RE: Request for Reconsideration
RFP #16-X-24053 Parts and Repairs for Lawn and Grounds Equipment (T-2187)

Dear Ms. Viola:

This correspondence is in response to your request for reconsideration, dated and received March 21, 2016, referencing the subject Request for Proposal (RFP) and regarding the proposal submitted by Turf Equipment and Supply Co. Inc. (Turf Equipment) to the Procurement Bureau (Bureau) of the Division of Purchase and Property (Division). Your letter requests that I reconsider my March 9, 2016 final agency decision, upholding the rejection of Turf Equipment's proposal for failing to submit a signed *Ownership Disclosure Form* and *Disclosure of Investment Activities in Iran* Form. Turf Equipment asserts that it did submitt the properly completed forms through the Division's eBid system.

By way of the background, the subject RFP was issued by the Bureau on behalf of State agencies to solicit proposals for parts and repairs for lawn and grounds equipment. RFP § 1.1 *Purpose and Intent.* The intent of the RFP is "to award contracts to those responsible bidders whose proposals, conforming to [the] RFP are most advantageous to the State, price and other factors considered." Ibid. This is a reprocurement of term contract T-2187.

The proposal submission due date was February 16, 2016. Although Turf Equipment submitted a timely electronic proposal, its proposal was rejected for failing to submit a completed *Ownership Disclosure Form* and *Disclosure of Investment Activities in Iran* Form. Turf Equipment protested this rejection on February 23, 2016, and the Division upheld the rejection via final agency decision dated March 9, 2016. In that decision, I found:

> Regrettably, Turf Equipment's proposal failed to include a properly signed *Ownership Disclosure Form* and *Disclosure of Investment Activities in Iran* Form. As noted above, the two permissible ways to sign these forms were either: 1) downloading the document, physically signing the form, scanning the completed document, and then uploading it; or 2) typing the name of the signatory in the space designated for certification signature and uploading the document. Here, unfortunately, the signature lines on the submitted forms were left blank.

> . . . The deficiency at issue cannot be remedied after the proposal submission deadline, as acceptance of Turf Equipment's proposal under these circumstances would be contrary to the provisions of governing statutes and would provide Turf Equipment 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.

Notwithstanding this determination, Turf Equipment seeks to prove that it submitted the properly signed forms by including a "Proposal Submittal Confirmation" generated by the eBid system on January 21, 2016, which states: "[t]he Bid has been successfully submitted." Turf Equipment states "[a]fter the bid was submitted using our PIN number, [it] reviewed, and confirmed twice, that all documents were uploaded and complete, including the name of the signature in the spaces designated." Turf Equipment also attached a screen shot showing that the documents it uploaded to eBid had not been altered since being submitted on January 21, 2016, and included copies of those documents. However, Turf Equipment acknowledges that upon receiving the Notice of Proposal Rejection, it "went into the eBid Proposal and noticed that the forms [it] had uploaded and submitted were replaced with blank forms in the Required Forms Work Area and the Other Forms Work Area. The forms [it] had uploaded to the Attached Documents Work Area, however, had remained intact." Turf Equipment notes that perhaps because it submitted its proposal more than three weeks prior to the submission deadline, there may have "been a reloading of the State's documents during that time" causing the incomplete forms to be submitted.

Although Turf Equipment asserts the forms in question contained a signature when uploaded to the Division's eBid system, a review of the documents contained in eBid confirms these forms contained a blank signature line.[1] Although the eBid system requires that all forms be uploaded before the proposal can be submitted, the eBid system cannot differentiate between documents that are uploaded or what information is contained within a document. Rather, it accepts any document the bidder uploads in a required document field and will notify a bidder that its submission is complete regardless of the information contained within the forms. Furthermore, once a proposal is submitted, the only way a document can be altered is if a bidder goes back into its submission prior to the proposal submission deadline, withdraws the entire proposal using a PIN, uploads a new document, and resubmits the entire proposal using a PIN. The Division is unable to alter, upload, erase, or replace any forms submitted by the bidder through the eBid system; rather, the Division can only download the forms submitted as part of a complete proposal after the proposal submission deadline. The responsibility for the contents of the proposal, forms, or submittals necessarily and appropriately rests solely with the bidder.

Furthermore, while Turf Equipment asserts that it did not modify the forms in question after submitting its proposal on January 21, 2016, and includes a copy of these forms with its letter, a review of the Standard RFP Forms included with Turf Equipment's request for reconsideration shows that the signature block on the *Ownership Disclosure Form* and *Disclosure of Investment Activities in Iran* Form were left blank.[2] As noted in my March 9, 2016 final agency decision, 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 Sections 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

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[1] Please note that within the eBid system, to view the form successfully uploaded, a bidder must click on the icon located under the column heading "Form in Lockbox." Conversely, clicking on the permanent link to a document in eBid after having uploaded a completed form to the "Required Forms Work Area" will show the blank form.

[2] Although not a cause for proposal rejection, I also note the signature block on the *Signatory Page* and *Cooperative Purchasing Form* included with this request for reconsideration and uploaded as part of Turf Equipment's proposal were both left empty. All of the forms attached to Turf Equipment's request for reconsideration are identical to the forms submitted through eBid.

the proposal and a completed and signed *Disclosure of Investment Activities in Iran* form as part of a bidder's proposal was required.

Based on the foregoing, I must uphold my March 9, 2016 final agency decision and deny Turf Equipment's request for reconsideration.

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 Turf Equipment's proposal. Thank you for registering your business with NJ START at www.njstart.gov, the State of New Jersey's new eProcurement system.

Sincerely,

Maurice Griffin
Chief Hearing Officer

MG:DF
c: P. Michaels
K. Thomas
V. Bequer
A. Nelson