



# State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR

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*Director*

February 4, 2016

Mr. Charles Romanoli, CCM  
New Road Construction Management Co., Inc.  
1876 Greentree Road  
Cherry Hill, New Jersey 08003

**Re: New Road Construction Management Co., Inc.  
Reconsideration of Chapter 51/EO117 Ineligibility, Rowan University**

Dear Mr. Romanoli:

This letter is in response to your e-mail to Julie Weaver of the Division of Purchase and Property ("Division") dated November 18, 2015, and your facsimile addressed to me also dated November 18<sup>th</sup>. The e-mail and facsimile seek to "appeal", or request reconsideration of an initial ineligibility determination by the Chapter 51 Unit of the Division that four (4) contributions made by New Road Construction Management Co., Inc. ("New Road Construction"), rendered New Road Construction ineligible for a contract award by Rowan University. The contributions are as follows:

Camden County Democratic Committee in the amount of \$1,500 on 12/18/2014;  
Gloucester County Democratic Committee in the amount of \$1,000 on 12/18/2014;  
Cumberland County Democratic Organization in the amount of \$500 on 5/28/2015; and  
Cumberland County Democratic Organization in the amount of \$1,000 on 8/6/2015  
(collectively the "Contributions").

The pertinent statute, P.L. 2005, c. 51 ("Chapter 51"), prohibits the State of New Jersey ("State"), or any of the State's purchasing agents or agencies, or its independent authorities from contracting with business entities that have solicited or made any contribution of money to any candidate committee or election fund of any candidate for, or any holder of the public office of the Governor, or to any State or county political party committee within specified time frames. Effective November 15, 2008, Executive Order Number 117, among other things, extended Chapter 51's limit on contracting with firms that have contributed to include business entities contributing to any legislative leadership committee, or any municipal political party committee in the same manner as those provisions apply to a contribution to any candidate committee, election fund, or State or county political party committee identified in Chapter 51.

The legislative findings associated with Chapter 51 place the utmost importance on the State's compelling interests in prohibiting the award of government contracts to business entities that are contributors to certain political parties and holders of public office. N.J.S.A. 19:44A-20.13. The State is charged with the duty of assuring the public that the selection of State contracts is based upon merit and not political contributions made by such contractors. Ibid. The legislative intent is to safeguard not only against political contributions that pose the risk of improper influence or purchase of access, but also against those contributions that create the perception or appearance thereof. Id.

I begin with a brief review of the facts. Rowan University issued its RFQ No.: 16-12 for Project Management On-Call Services. As a required part of the procurement process, Rowan University requested, and New Road Construction submitted, a New Jersey Division of Purchase and Property Two-Year Chapter 51/EO117 Vendor Certification and Disclosure of Political Contributions ("Certification") to Rowan University. Rowan University forwarded the Certification to the Chapter 51 Unit for review. New Road Construction's Certification, certified by Scott Weitz, the President of New Road Construction with a one hundred percent (100%) ownership interest, disclosed the aforementioned Contributions. The Chapter 51 Unit reviewed the Contributions and determined them to be disqualifying in violation of Chapter 51/EO 117. This reconsideration request followed.

New Road Construction requests relief on several bases. First, New Road Construction states that it is a registered New Jersey small business doing business in New Jersey for 35 years and has earned an exceptional reputation for integrity and quality service. New Road Construction adds that it has worked diligently to win a contract from Rowan University for three (3) years now so this is an important award for New Road Construction and its employees. Second, New Road Construction states that the Contributions were "minimal political contributions" intended for local political candidates. Finally, New Road Construction states that the Contributions were an "unintentional error on our bookkeepers [sic] part" and the four (4) Contributions have been returned.

As to New Road Construction's first contention that it is a registered State small business entity of long-standing and has an excellent reputation for both integrity and quality of service, I accept this contention and find it to be accurate for the purposes of this reconsideration matter. I turn now to the other contentions in this request.

The second contention is that the Contributions were not significant but "minimal". Further, the Contributions were intended to support local political candidates. Chapter 51 contains a permissible, maximum legal political contribution limit. Specifically, Chapter 51 provides: "[f]or the purposes of this act, a 'contribution' means a contribution reportable by the recipient under 'The New Jersey Campaign Contributions and Expenditures Reporting Act,' P.L. 1973, c. 83, (C.19:44A-1 et seq.) made on or after the effective date of this act". N.J.S.A. 19:44A-20.16. A "Contribution reportable by the recipient" means, among other things, a contribution or contributions in excess of \$300.00 per calendar year to or received by a political party committee. N.J.A.C. 19:25-24.1. Correspondingly, \$300.00 is the legal limit. The subject Contributions range from \$500.00 to \$1,500.00, all in excess of the permitted limit. Thus, the ineligibility determination cannot be reversed on this basis. The other part of this contention is that the Contributions were intended for local political candidates. A review of the four (4) checks evidencing the Contributions (copies of the checks are attached hereto and incorporated herein) shows that they were made payable by New Road Construction to the Camden County Democratic Committee, the Gloucester County Democratic Committee and two (2) to the Cumberland County Democratic Organization, all county political party committees. None of the Contributions were made payable to any local political candidate, or any election fund thereof.

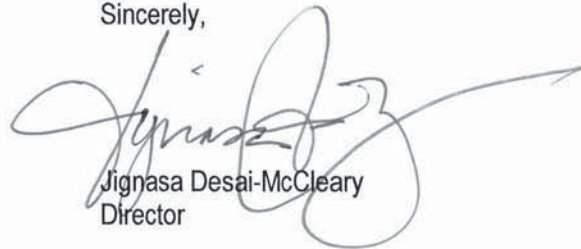
The third and final contention is that the Contributions were inadvertent errors on the part of New Road Construction's bookkeeper and have been returned within the bounds of the applicable law. In documentary support of this contention, New Road Construction submitted a copy of a check from the Camden County Democratic Committee, Inc. to New Road Construction dated November 10, 2015, in the amount of \$1,500.00 and a copy of a check from the Gloucester County Democratic Executive Committee to New Road Construction dated November 16, 2015, in the amount of \$1,000.00 with evidence of a date stamp "RECEIVED" by New Road Construction on November 18, 2015. New Road Construction also submitted a copy of a check from the Cumberland County Democratic Organization to New Road Construction dated November 10, 2015, in the amount of \$500.00 and a copy of a check from the Cumberland County Democratic Organization dated November 10, 2015, in the amount of \$1,000.00. (Copies of the checks are attached hereto and incorporated herein).

New Road Construction's contention that the Contributions have been "returned", or refunded in a manner to provide relief, is inconsistent with both the governing statute and binding precedent. Chapter 51 provides a narrow window within which a business entity may neutralize the effect of an inadvertent contribution and maintain its eligibility for State contracts. N.J.S.A. 19:44A-20.20 provides in part: "If a business entity inadvertently makes a contribution that would otherwise bar it from receiving a contract, or makes a contribution during the term of a contract in violation of this act, the entity may request a full reimbursement from the recipient and, if such

reimbursement is received within 30 days after the date on which the contribution was made, the business entity would again be eligible to receive a contract or would no longer be in violation, as appropriate". The contributions to the Camden County Democratic Committee and the Gloucester County Democratic Committee were made on the same day, December 18, 2014. As stated, New Road Construction presented documentation of the return of these contributions on November 10, 2015, and November 18, 2015, respectively. The two (2) contributions to the Cumberland County Democratic Organization dated May 28, 2015 and August 6, 2015 were returned to New Road Construction by checks dated November 10, 2015. The return of all of these contributions from the county political party committees to New Road Construction came months after they were made, well after the 30 days required under Chapter 51 and EO 117. See also In Re Earle Asphalt, 401 N.J. Super. 310 (App. Div. 2008) aff'd o.b. 198 N.J. 143 (2009) (affirming that both the request for reimbursement and actual receipt of the reimbursement must occur within 30 days of the disqualifying contribution). Therefore, according to law, the ineligibility determination cannot be reversed.

I have reviewed the information submitted as it relates to the provisions of Chapter 51 and Executive Order Number 117. None of New Road Construction's contentions provide a basis for relief. Based upon this review and for the reasons discussed above, I am without discretion to overturn the initial ineligibility determination rendered by the Chapter 51 Unit in this matter. To obtain additional information and future guidance concerning the legal requirements, please review the Division's website at <http://www.state.nj.us/treasury/purchase/execorder134.shtml>. By copy of this letter, I am notifying Rowan University of this decision.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jignasa Desai-McCleary', with a long horizontal flourish extending to the right.

Jignasa Desai-McCleary  
Director

c: Amy Davis, DPP  
Robert Shaughnessy, DPMC  
Christina Haley, Rowan University  
Alexis Jones, Rowan University