



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR
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MAURICE A. GRIFFIN
Acting Director

December 14, 2020

Via Electronic Mail Only j3@setrite.com

Jerry Gauvreau
Set-Rite Corp.
5790 Bristol Pike
P.O. Box 988
Bristol, PA 19007

Re: I/M/O Bid Solicitation #20DPP00552 Set-Rite Corp.
Protest of Notice of Proposal Rejection
T1342 Overhead/Rolling Doors & Operators, Repair, Replace

Dear Mr. Gauvreau:

This final agency decision is in response to your correspondence of December 11, 2020, on behalf of Set-Rite Corp. (Set-Rite) which was received by the Division of Purchase and Property's (Division) Hearing Unit. In that email, Set-Rite protests the Notice of Proposal Rejection issued by the Division's Proposal Review Unit for Bid Solicitation #20DPP0552 - T1342 Overhead/Rolling Doors & Operators, Repair, Replace (Bid Solicitation). The record of this procurement reveals that Set-Rite's Quote was rejected for failing to submit a complete *Ownership Disclosure Form* with its Quote.

By way of background, on October 9, 2020, the Division's Procurement Bureau (Bureau) issued the Bid Solicitation on behalf of the New Jersey Department of Transportation, various State Agencies and other Cooperative Purchasing Program participants. The purpose of this Bid Solicitation is to solicit Quotes for repair, replacement and maintenance services for different variations of overhead doors and required operational components at facilities throughout the State on an "as needed" basis. Bid Solicitation §1.1 *Purpose and Intent*.

On December 9, 2020, the Division's Proposal Review Unit opened Quotes which were received by the submission deadline of 2:00 pm eastern time. After conducting a review of the Quotes received, the Division's Proposal Review Unit issued a Notice of Proposal Rejection to Set-Rite for failing to submit a complete *Ownership Disclosure Form* submitted with its Quote. Specifically, the Notice of Proposal Rejection indicates that Set-Rite did not include the second page of the *Ownership Disclosure Form* with the Quote submission.

In response to the Notice of Proposal Rejection, on December 11, 2020, Set-Rite wrote to the Division's Hearing Unit stating "I would like to protest the ruling for rejection for T1343 for Overhead/Rolling Doors & Operators, Repair/Replace, DOT & Other Agencies." With the protest, Set-Rite included a copy of the full *Ownership Disclosure Form*.

In consideration of Set-Rite's protest, I have reviewed the record of this procurement, including the Bid Solicitation, Set-Rite's Quote and protest, the relevant statutes, regulations and case law. The review of the record has provided me with the information necessary to determine the facts of this matter and to render an informed final agency decision on the merits of the protest.

The Division's administrative regulations that govern the advertised procurement process establish certain requirements that must be met in order for a Quote to be accepted. Those regulations provide in relevant part that:

- (a) In order to be eligible for consideration for award of contract, the bidder's proposal shall¹ conform to the following requirements or be subject to designation as a non-responsive proposal for non-compliance:

...

4. Contain all RFP-required certifications, forms, and attachments, completed and signed as required. An RFP may designate certain forms and/or certifications that need not be included in the bidder's proposal but that must be provided by a successful bidder upon request prior to an award of contract;

[N.J.A.C. 17:12-2.2(a), emphasis added.]

If the requirements of N.J.A.C. 17:12-2.2 are not met, a Quote must be rejected. This regulation mandates stringent enforcement to maintain the equal footing of all Vendors {Bidders} and to ensure the integrity of the State's bidding process.

The subject solicitation was comprised of the Bid Solicitation, other documents and mandatory forms which were specifically addressed in Bid Solicitation Section 4.0 *Quote Preparation and Submission* which states in pertinent part:

Vendor's {Bidder's} failure to complete, sign and submit the forms in Section 4.4.1.2 shall be cause to reject its Quote as non-responsive.

[Bid Solicitation § 4.4.1.2 *NJ Standard Bid Solicitation Forms Required With The Quote.*]

Among those forms required to be submitted with the Quote is the *Ownership Disclosure Form*. With respect to ownership, the New Jersey Legislature, in implementing N.J.S.A. 52:25-24.2, mandated that a Vendor {Bidder} must supply its ownership information, prior to or with its Quote, to be eligible to enter into a Blanket P.O. with the State. N.J.S.A. 52:25-24.2 states, in pertinent part:

No corporations, partnership, or limited liability company shall be awarded any [Blanket P.O.] nor shall any agreement be entered into for the performance of any work or the furnishing of any materials or supplies, the cost of which is to be paid with or out of any public funds, by the State,

¹ "Shall Denotes that which is a mandatory requirement." Bid Solicitation Section 2.2 *General Definitions*.

or any county, municipality or school district, or any subsidiary agency of the State, or of any county, municipality or school district, or by any authority, board, or commission which exercises governmental functions, unless prior to the receipt of the bid or accompanying the bid, of said corporation, said partnership, or said limited liability company there is submitted a statement setting for the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member exceeding the 10 percent ownership criteria established in this act, has been listed.

The *Ownership Disclosure Form* is specifically discussed in Bid Solicitation Section § 4.4.1.2.1 which states in part:

Pursuant to N.J.S.A. 52:25-24.2, in the event the Vendor {Bidder} is a corporation, partnership or limited liability company, the Vendor {Bidder} must complete an Ownership Disclosure Form.

A current completed Ownership Disclosure Form must be received prior to or accompany the submitted Quote. A Vendor's {Bidder's} failure to submit the completed and signed form with its Quote will result in the rejection of the Quote as non-responsive and preclude the award of a Blanket P.O. to said Vendor {Bidder} unless the Division has on file a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the Quote submission deadline for this procurement. If any ownership change has occurred within the last six (6) months, a new Ownership Disclosure Form must be completed, signed and submitted with the Quote.

In order to make this process of certifying easier, the Division provides to the bidding community the *Ownership Disclosure Form*, a two-page document, to be completed in order for Vendor {Bidder} to comply with the statutory requirements. As noted above, Set-Rite only submitted page one of the *Ownership Disclosure Form* with its Quote. See the screenshot below.

	STATE OF NEW JERSEY DEPARTMENT OF THE TREASURY DIVISION OF PURCHASE AND PROPERTY 33 WEST STATE STREET, P.O. BOX 230 TRENTON, NEW JERSEY 08625-0230
OWNERSHIP DISCLOSURE FORM	
BID SOLICITATION #: 20DPP00552	VENDOR (BIDDER): Set-Rite Corporation
<small>ALL PARTIES ENTERING INTO A CONTRACT WITH THE STATE ARE REQUIRED TO PROVIDE THE INFORMATION REQUESTED PURSUANT TO N.J.S.A. 52:25-24.2. PLEASE NOTE THAT IF THE VENDOR/BIDDER IS A NON-PROFIT ENTITY, THIS FORM IS NOT REQUIRED.</small>	
PART 1	
Are there any individuals, partners, members, stockholders, corporations, partnerships, or limited liability companies owning a 10% or greater interest in the Vendor (Bidder)?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
<small>If you answered, "YES" above, you must disclose the following: (a) the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class; (b) all individual partners in the partnership who own a 10 percent or greater interest therein; or, (c) all members in the limited liability company who own a 10 percent or greater interest therein.</small>	
NAME	Jerry Gauvreau Jr
ADDRESS 1	[REDACTED]
ADDRESS 2	[REDACTED]
CITY	[REDACTED]
NAME	Jerry Gauvreau III
ADDRESS 1	[REDACTED]
ADDRESS 2	[REDACTED]
CITY	[REDACTED]
NAME	Reid Ballard
ADDRESS 1	[REDACTED]
ADDRESS 2	[REDACTED]
CITY	[REDACTED]
NAME	_____
ADDRESS 1	_____
ADDRESS 2	_____
CITY	_____ STATE _____ ZIP _____
NAME	_____
ADDRESS 1	_____
ADDRESS 2	_____
CITY	_____ STATE _____ ZIP _____
<small>Attach Additional Sheets if Necessary.</small>	
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As shown on the form above, Set-Rite listed three individuals, not entities, with a 10 percent or greater ownership interest in Set-Rite. No additional stockholders, partners, individuals, or entities are listed on this form. Although Page 2 of the *Ownership Disclosure Form* was not included in Set-Rite's Quote submission, since neither persons nor entities can own an interest in a person, it can be logically concluded that these three individuals are the only owners of the company. Thus, no additional information could have been submitted by Set-Rite on Page 2 of the *Ownership Disclosure Form* that would have provided additional information as to the underlying ownership structure of Set-Rite as required by N.J.S.A. 52:25-24.2.

The fact that no other stockholders, partners, individuals, or entities own Set-Rite, can be verified by reviewing the *Two Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions Form* that was also submitted by Set-Rite as part of its Quote for this Bid Solicitation. As shown in the screenshot below, the only 10% or greater owners of Set-Rite, are the same three individuals. No other owners are indicated.

State of New Jersey
 Department of the Treasury
 Division of Purchase and Property
 Two-Year Chapter 51/Executive Order 117 Vendor Certification and
 Disclosure of Political Contributions

FOR STATE USE ONLY

Solicitation, RFP, or Contract No. _____ Award Amount _____
 Description of Services _____
 State Agency Name _____ Contact Person _____
 Phone Number _____ Contact Email _____
 Check if the Contract / Agreement is Being Funded Using FHWA Funds

Part 1: Business Entity Information Please check if requesting
recertification

Full Legal Business Name Set-Rite Corporation
(Including trade name if applicable)
 Address 5990 Bristol Pike
 City Bristol State PA Zip 19007 Phone 215-946-6600
 Vendor Email Sales@setrite.com Vendor FEIN (SS# if sole proprietor/natural person) _____

**Check off the business type and list below the required information for the type of business selected.
 MUST BE COMPLETED IN FULL.**

Corporation: LIST ALL OFFICERS and any 10% and greater shareholder (If the corporation only has one officer, please write "sole officer" after the officer's name.)
 Professional Corporation: LIST ALL OFFICERS and ALL SHAREHOLDERS
 Partnership: LIST ALL PARTNERS with any equity interest
 Limited Liability Company: LIST ALL MEMBERS with any equity interest
 Sole Proprietor

Note: "Officers" means President, Vice President with senior management responsibility, Secretary, Treasurer, Chief Executive Officer or Chief Financial Officer of a corporation, or any person routinely performing such functions for a corporation.
 Also Note: "N/A" will not be accepted as a valid response. Where applicable, indicate "None."

<p>All Officers of a Corporation or PC</p> <p><u>Jerry Gauvreau Jr</u> <u>Jerry Gauvreau III</u> <u>Reid Ballard</u></p>	<p>10% and greater shareholders of a corporation or all shareholders of a PC</p> <p><u>Jerry Gauvreau Jr</u> <u>Jerry Gauvreau III</u> <u>Reid Ballard</u></p>
<p>All Equity partners of a Partnership</p> <p>_____ _____ _____</p>	<p>All Equity members of a LLC</p> <p>_____ _____ _____</p>

If you need additional space for listing of Officers, Shareholders, Partners or Members, please attach separate page.

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Thus, the ownership disclosure required by the statute is complete.

In light of the findings set forth above, I overturn the Proposal Review Unit's Notice of Proposal Rejection. Set-Rite's Quote will be forwarded to the Bureau for evaluation along with all other Quotes submitted. This is my final agency decision on this matter.

Thank you for your company's interest in doing business with the State of New Jersey and for registering your business with **NJSTART** at www.njstart.gov, the State of New Jersey's eProcurement system.

Sincerely,
Rachel Doobrajh
 Rachel Doobrajh
 Acting Chief Hearing Officer

- c. M. Dunn
- R. Regan
- D. Albin
- A. Nelson
- D. Rodriguez