



State of New Jersey

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

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September 25, 2024

Via Electronic Mail Only to lisa@specialt.net

Lisa Polillo
Contract Administrator
Special T, LLC
11820 Wills Road, Suite 140
Alpharetta, GA 30009-2056

Re: I/M/O RFQ #15964088 Special T, LLC
Protest of Notice of Proposal Rejection
G2004 Furniture: Office, Dormitory, Residential, Library, Classroom, Lounge and System -
Statewide

Dear Ms. Polillo:

This final agency decision is in response to the protest letter dated September 3, 2024 ("Letter"), submitted by Special T, LLC ("Special T"). That Letter was received by the Division of Purchase and Property's ("Division") Hearing Unit on September 4, 2024. In that correspondence, Special T protests the Notice of Intent to Award ("NOI") issued on August 28, 2024, by the Division's Procurement Bureau ("Bureau") for Request For Quotation #15964088 – G2004 Furniture: Office, Dormitory, Residential, Library, Classroom, Lounge and System - Statewide ("RFQ"). The record of this procurement reveals that the Quote submitted by Special T was deemed non-responsive on the grounds that "Special-T LLC did not provide the Specification Conformance Certification/Form with its Quote as required in RFQ Section 3.6.14" as set forth in the Recommendation Report dated July 24, 2024 ("Rec Report"). In their letter, Special T stated that "Special T, LLC *did* submit the Specification Conformance Certification/Form as required in RFP Section 3.6.14 and the submission was in conformance with the language set forth in the provided document." Letter, page 1. Additionally, with their Letter, Special T also attached a Specification Conformance Certification, dated October 16, 2023, and a Specification Conformance Certification with modified language dated September 4, 2024.

By way of background, on November 16, 2022, the Procurement Bureau ("Bureau") issued the RFQ on behalf of the State of New Jersey. The purpose of the RFQ was to solicit "Quotes for various types of Office, Dormitory, Residential, Library, Classroom and Lounge Furniture, Non-Modular and Files, System and Open Plan/Landscape Furniture, related supplies and installation services necessary to meet the needs of various Using Agencies." RFQ Sec. 1.1, *Purpose and Intent*. It is the intent of the State to award a Contract to that responsible Bidder(s) whose Quote, conforming to this RFQ is most advantageous to the State of New Jersey (State), price and other factors considered. The State may award any or all price lines.

In accordance with RFQ Section 2.1, *Electronic Question and Answer Period*, an electronic portal enabling the Bureau to receive questions electronically was available to all potential Bidders to submit questions by December 7, 2022. On June 19, 2023, Amendment 9 was issued which answered 319 questions received during this electronic question and answer period. A second electronic question and answer period allowed bidders to submit additional questions by June 28, 2023. The sixty (60) questions submitted during this second question and answer period were answered via Amendment number 11.

On November 28, 2023, the Bureau opened forty two (42) Quotes which were received by the submission deadline of 2:00 pm eastern time. After conducting an initial review of the Quotes received for compliance with mandatory Quote submission requirements, it was determined that Special T's Quote was non responsive for failing to submit a completed Specification Conformance Certification Form, as required in RFQ Section 3.6.14.

In consideration of the Special T protest, I have reviewed the record of this procurement, including the RFQ, the Quotes received, the 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 final agency decision on the merits of the protest. I set forth herein the Division's final agency decision.

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 **shall** 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 procurement was comprised of the RFQ, other documents and mandatory forms which were specifically addressed in RFQ Section 3.6, *Forms, Registrations and Certifications to be submitted with Quote*, which states in pertinent part that:

3.6 FORMS, REGISTRATIONS AND CERTIFICATIONS TO BE SUBMITTED WITH QUOTE A Bidder is required to complete and submit the following forms.

RFQ Section 3.6.14 further states:

3.6.14 SPECIFICATION CONFORMANCE FORM

The Bidder shall submit with its Quote the Specification Conformance Form. By submitting this form, the Bidders certifies that all items offered in response to this RFQ conform to the requirements set forth in the RFQ.

The term “must” denotes a mandatory requirement as further set forth in the Bid Solicitation’s glossary:

Must – Denotes that which is a mandatory requirement.

[Bid Solicitation Section 9. GLOSSARY]

The term “shall” also denotes that which is a mandatory requirement as further set forth in the Bid Solicitation’s glossary:

Shall – Denotes that which is a mandatory requirement.

[Bid Solicitation Section 9. GLOSSARY]

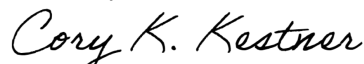
It is clear that submitting the Specification Conformance Form prior to Quote Opening was a requirement to be found responsive for this RFQ. In light of Special T’s protest and claims that they submitted a completed, conforming Specification Conformance Form with their Quote, the Hearing Unit completed an independent review of the RFQ requirements, Special T’s Quote, and documents submitted by Special T in connection with their Quote. As a result of this review, it appears that the Specification Conformance Form was overlooked when the rest of Special T’s submission documents were downloaded. The Hearing Unit located the blank Specification Conformance Form on the Federal General Services Administration (GSA) eBuy website under RFQ ID: RFQ1596408S: G2004 Furniture Office Dormitory Residential Library Classroom Lounge and System, and was able to confirm, as Special T claimed, that it had been timely submitted and accurately completed with their Quote under the “Quotes Received” tab in GSA eBuy, Quote ID: RFQ1596408S-UFB.

In light of the findings set forth above, I find that Special T’s Quote was conforming and they are eligible for consideration for contract award. I hereby remand Special T’s Quote to the Bureau for further evaluation and possible award.

Thank you for your company’s continuing interest in doing business with the State of New Jersey, I encourage you to log into [NJSTART](#) to select any and all commodity codes for procurements you may be interested in submitting a Quote for so that you may receive notification of future bidding opportunities.

This is the Division’s final agency decision. Pursuant to N.J.A.C. 17:12-3.1, this determination is appealable to the Appellate Division of the Superior Court in accordance with the New Jersey Court Rules (R. 2:4-1) which provide a party 45 days to appeal this final agency decision.

Sincerely,



Cory K. Kestner, Esq.

Acting Chief Hearing Officer

CKK: CMD

c. K. Thomas
C. Murphy