

April 7, 2015

Via Email: jbaldino@avalan.us

Mr. James Baldino
NEIE Construction Services, LLC
3175 Route 10
Denville, NJ 07834

**Re: Irvington High School, Irvington, NJ
NJSDA Contract No.: EP-0083-C01
Bid Protest – FINAL AGENCY DECISION**

Dear Mr. Baldino:

As previously communicated to NEIE Construction Services, LLC (“NEIE”) on April 1, 2015, the New Jersey Schools Development Authority (“NJSDA”) is in receipt of your protest letter, dated March 31, 2015, pertaining to the above referenced project.

Your protest “takes exception” to the Project Rating Limit (“PRL”) of \$4,406,800 issued by NJSDA to NEIE on March 6, 2015. Please be advised, as per the Instructions to Bidders, Section 3.3, “Any Bidder who disagrees with its Project Rating Limit may challenge the determination by making a written request to the Senior Director of Procurement setting forth the specific grounds for the challenge. The challenge must be received by the Authority within three (3) business days of the posting of the results on the Authority’s web site (www.njsda.gov).” As such, NEIE’s challenge of the PRL issued on March 6, 2015 is untimely. Nevertheless, NJSDA reviewed the calculation of NEIE’s PRL and confirmed that the PRL of \$4,406,800 issued to NEIE on March 6, 2015 is accurate based on the methodology outlined in the Instructions to Bidders, Section 3.2. The formula for calculating the PRL as outlined in the Instructions to Bidders is as follows: (Bidder’s Largest Listed Project) x (1+ Reference Adjustment + Safety Adjustment + Prevailing Wage Adjustment) x (Performance Evaluation Multiplier, if applicable) = Adjustment to Bidder’s Largest Listed Project (maximum adjustment available: 170%).

Based on NJSDA’s evaluation of the information submitted by NEIE in its Project Rating Proposal (“PRP”) dated February 23, 2015, NEIE’s PRL was calculated as follows:

- Bidder’s Largest Listed Project: \$3,288,657
- Reference Adjustment: 24% (maximum adjustment available: 40%)
- Safety Adjustment: 10% (maximum adjustment available: 36%)
- Prevailing Wage Adjustment: 0% (maximum adjustment available: 0%)
- Performance Evaluation Multiplier: Not Applicable

Adjustment Factor: $1.00 + 0.24 + 0.10 + 0.00 = 1.34$

PRL Calculation: $\$3,288,657 \times 1.34 = \$4,406,800$

Having confirmed the accuracy of the PRL issued to NEIE on March 6, 2015, your protest is hereby denied and NJSDA confirms the appropriateness of its rejection of NEIE’s Price Proposal on March 31, 2015 for submitting a Price Proposal that exceeds its Project Rating Limit.

Additionally, please be advised that the two other bid deficiencies noted in NJSDA’s rejection letter of March 31, 2015, and also addressed in NEIE’s protest letter of March 31, 2015, were determined by NJSDA to be waivable defects; however, while these deficiencies did not result in the rejection of NEIE’s Price Proposal, they should be properly addressed by NEIE in future Price Proposal submittals.

As previously communicated to NEIE on March 31, 2015, NJSDA has decided to re-advertise the project. We encourage your firm to participate in the procurement process for this important project.

This is a Final Agency Decision.

Regards,

A handwritten signature in black ink that reads "Donald Guarriello". The signature is written in a cursive style with a large, stylized initial "D".

Donald R. Guarriello
Vice President and Chief Financial Officer

cc: Andrew Yosha, NJSDA
Raymond Arcario, NJSDA
Jane Kelly, NJSDA
Albert Barnes, Esq., NJSDA
Sean Murphy, NJSDA
Aidita Milsted, NJSDA
A. Perry, NJSDA
R. Dworkis, NJSDA
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