



Via Email (hutton@hutton1.com)

June 19, 2015

Ms. Norma Cohen
Hutton Construction L.L.C.
41 Village Park Road
Cedar Grove, NJ 07009

RE: Jersey City - 160-180 Maple Street - Site Grading and Environmental Interim Remedial Measures
NJSDA Contract No. JE-0039-N01
Bid Protest by Hutton Construction L.L.C.
Final Agency Decision

Dear Ms. Cohen:

As previously communicated to Hutton Construction L.L.C. ("Hutton") on June 11, 2015, the New Jersey Schools Development Authority ("NJSDA") is in receipt of your protest letter, dated June 10, 2015, pertaining to the above referenced project.

Your protest challenges the NJSDA's application of the bidding requirement detailed in the "Instructions to Bidders" and "Bid Advertisement" issued for this project. Specifically, you believe the package submitted by Hutton and received by the NJSDA on June 9, 2015 at 8:12 AM containing your firm's Price Proposal and Project Rating Proposal were compliant with NJSDA bidding requirements. As outlined in the "Instructions to Bidders" and "Bid Advertisement", a firm must comply with all of the following requirements before it would be considered a qualified bidder:

1. Per the Instructions to Bidders, Section 2.2, "All Bidders must attend the mandatory pre-bid meeting. No Project Rating Proposal will be accepted from any Bidder that fails to attend the mandatory pre-bid meeting." The Bid Advertisement set the date for the mandatory pre-bid meeting as May 14, 2015. Hutton was in attendance at the mandatory pre-bid meeting and site visit and was, therefore, compliant with this bidding requirement.
2. Per the Instructions to Bidders, Section 3.1A, "A project rating is effective for 24 months, and a firm may request that the Authority apply that rating to a particular bid, provided there has been no negative change in the evaluative criteria upon which the rating is based. If applying the most recent project rating limit, the Bidder MUST still complete pages 1 (Bidder's name) and 7 (signature page). Otherwise, all Bidders are required to submit a completed Project Rating Proposal on or before the date and time listed in the Bid Advertisement or such other date as set by Addenda ("submission date")." The Bid Advertisement set the date for submission of the Project Rating Proposal as May 20, 2015. One addendum was issued for this project on May 27, 2015 and it did not modify the submission date of the Project Rating Proposal. Regardless of whether a firm was requesting to apply a Project Rating Limit on file with the NJSDA or was submitting a new Project Rating Proposal, a Project Rating Proposal form was required to be completed as prescribed in the Instructions to Bidders at Sections 3.1A and 3.1B, as applicable, and submitted to the NJSDA by May 20, 2015. Hutton

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submitted its Project Rating Proposal with its Price Proposal, both of which were received by the NJSDA on June 9, 2015 at 8:12 AM. Since your firm's Project Rating Proposal was received after the May 20, 2015 deadline, Hutton was **not** compliant with this bidding requirement. The responsiveness of the Project Rating Proposal submission was not evaluated since it was being returned to Hutton.

3. Per the Instructions to Bidders, Section 4.2, "The Price Proposal shall be enclosed in a sealed envelope that is clearly marked with the Bidder's Name, Contract Number, Contract Name, School District, County and the date of Price Proposal submission. The Bidder must submit its sealed Price Proposal to the Authority in accordance with Section 8 herein. If the sealed Price Proposal is enclosed in another envelope for the purpose of delivery, the exterior envelope shall be clearly marked as containing a Price Proposal with the Bidder's name, Contract Number, Contract Name and the date of the Price Proposal submission shown on the envelope. Any Price Proposal that arrives after the time set for submission will be returned to the Bidder unopened." The Bid Advertisement set the date for submission of the Price Proposal as June 9, 2015. Hutton submitted its Price Proposal with its Project Rating Proposal, both of which were received by the NJSDA on June 9, 2015 at 8:12 AM. Since your firm's Price Proposal was received by the June 9, 2015 deadline, Hutton was compliant with this bidding requirement. The responsiveness of the Price Proposal submission was not evaluated since it was being returned to Hutton.

Although Hutton was compliant with two of the three bidding requirements outlined above, and further detailed in the "Instructions to Bidders" and "Bid Advertisement", your firm's failure to be compliant with all three bidding requirements, specifically Hutton's failure to provide a Project Rating Proposal by the May 20, 2015 deadline, rendered the bid submitted non-responsive to the bidding requirements and the NJSDA appropriately returned Hutton's Price Proposal and Project Rating Proposal submissions on June 9, 2015.

For the foregoing reason, Hutton's protest is rejected. This is a Final Agency Decision.

Sincerely,



Donald Guarriello, Vice President and Chief Financial Officer
New Jersey Schools Development Authority

cc: Andrew Yosha, NJSDA Executive Vice President, Program Operations & Strategic Planning
Raymond Arcario, NJSDA Vice President, Construction Operations
Jane F. Kelly, NJSDA Vice President, Corporate Governance and Operations
Albert D. Barnes, NJSDA Chief Counsel
C. Aidita Milsted, NJSDA Program Director
Sean Murphy, NJSDA Director, Procurement