



FINAL AGENCY DECISION

November 14, 2025

Via Email and Regular First Class Mail

Mr. Joel G. Lizotte, Senior Vice President
Epic Management, Inc.
136 Eleventh Street
Piscataway, New Jersey 08854

**Re: West New York New Middle School – Design-Build
NJSDA Contract No. HU-0030-B01
Protest By Epic Management, Inc.**

Dear Mr. Lizotte:

The New Jersey Schools Development Authority (“NJSDA”) is in receipt of your October 24, 2025 protest letter on behalf of Epic Management, Inc., (“Epic”) relating to the above-referenced procurement for Design-Build services (the “Procurement”) for the New Middle School project in West New York, New Jersey (the “Project”). Generally, Epic’s protest challenges an award to the presumptive successful bidder, Terminal Construction Corporation (“Terminal”). This letter is the NJSDA’s formal response and final agency decision on Epic’s bid protest.

In evaluating Epic’s bid protest, the NJSDA has reviewed and considered the following: your October 24, 2025 correspondence, with attachments¹; October 31, 2025 correspondence from Andrew R. Schneidman, Executive Vice President and General Counsel of Terminal; your November 5, 2025 correspondence; Mr. Schneidman’s November 6, 2025 correspondence, with attachment; electronic correspondence to Epic and Terminal from Kimberli Banegas, SDA Deputy Director of Procurement, relating to the instant bid protest, dated October 27, 2025 and October 28, 2025; the June 9, 2025 advertisement for bids (hereinafter, the “Advertisement”); the Request for Proposals, last revised May 28, 2025 (“RFP”); Addenda Nos. 1 through 4 to the RFP, dated July 18, 2025, July 30, 2025, August 12, 2025, and August 20, 2025, respectively; the Information Package made available through a controlled-access website by the NJSDA to all bidders, including without limitation the project plans and Specifications; the Project Rating Proposals (and NJSDA Project Rating Proposal Evaluation Worksheets), Technical Proposals, Price Proposals and accompanying documentation submitted by all bidders in connection with the Procurement; and the Requests for Proposals relating to two (2) other NJSDA Design-Build procurements (NJSDA Contract Nos. EL-0044-B01 and WT-0024-B01) referenced in the parties’ submissions.

Brief Overview of the Procurement Process

The Procurement was advertised beginning on June 10, 2025. Under the terms of the Advertisement, any firm wishing to submit a proposal was required to submit a Project Rating Proposal (“PRP”) form no later

¹ Epic’s original submission did not include copies of all of the attachments referenced therein. The NJSDA received a corrected submission from Epic on October 28, 2025, which contained all referenced attachments.

than 2:00 p.m. on June 23, 2025. Furthermore, all interested bidders were required to attend a mandatory pre-bid site visit on June 26, 2025. Four (4) addenda were issued thereafter. On or before September 3, 2025, interested bidders submitted Technical Proposals, electronic Price Proposals through the BidExpress platform, and other documentation in accordance with the requirements of the Advertisement and RFP, as modified by addenda.

The Procurement was structured such that Technical Proposals consisted of two separate portions – a portion addressing Experience Criteria and a portion addressing Project Approach Criteria. Experience Criteria were evaluated by a panel of Evaluation Committee members to determine whether each interested bidder had demonstrated sufficient experience in each of the Experience Criteria categories to be considered for an award of the Design-Build Services Contract. All bidders submitting Technical Proposals were determined to have demonstrated such experience.

Project Approach Criteria were evaluated and scored by a Procurement-specific Selection Committee consisting of six (6) members (including one (1) West New York School District representative) through the evaluation of responsive Technical Proposals addressing the Project Approach Criteria and interviews conducted on September 15, 2025 for the purpose of clarifying the information contained in the Technical Proposals.

Raw scores of each of the Selection Committee members in each of the Project Approach Criteria categories were multiplied by an assigned weighting factor, then aggregated and averaged to arrive at a final non-price score for each Technical Proposal. Under this Procurement, price is assigned a weighting factor of 60% and non-price or “other” factors are assigned a combined weight of 40%.

A total of three (3) Price Proposals were received. The Price Proposals were publicly opened on September 17, 2025. Price and non-price scores for each bidder were then weighted and tabulated to arrive at a final ranking of the bidders. Terminal received a final rank of 1, while Epic received a final rank of 2.

Epic’s Bid Protest

Epic contends that Terminal’s bid should be rejected since Terminal’s bid proposal names Donald N. Dinallo, the President and Chief Executive Officer of Terminal, as the proposed Project Manager for the Project. Epic challenges whether Mr. Dinallo can serve in the role of “Full Time On Site Project Manager” for the Project, while simultaneously serving as the non-full-time Project Manager on a separate NJSDA project -- the Elizabeth New Elementary School project – that was previously awarded to Terminal (hereinafter the “Elizabeth Project”) and while also overseeing Terminal’s other non-NJSDA projects and business operations.

Epic initially contended that it would be “literally impossible” for Mr. Dinallo to serve in these various roles simultaneously. In its November 5, 2025 submission, however, Epic concedes that Mr. Dinallo’s serving as Project Manager for the Project “while possible” is “implausible at best.”

In response, Terminal asserts that Epic’s contentions are both inaccurate and unsupported. Terminal further asserts that the factual basis for Epic’s contentions is erroneous, particularly given that the Project

Manager requirements for the Elizabeth Project differ from those required for the instant Procurement. Finally, Terminal states that Mr. Dinallo is not only capable of performing, but will fully comply with, the Project Manager requirements for the Project.

Analysis of Epic's Bid Protest

By way of background, Section 5.5.1, paragraph 2 of the RFP for the Procurement provides, in pertinent part, that "[t]he Design-Builder's Project Manager shall be present at the Project Site at all times while Work is being performed."² While Epic characterizes this requirement as "Full Time," it should be noted that nothing in the RFP dictates that the Project Manager is precluded from performing any additional work or tasks related to other projects or responsibilities. Rather, the provision simply requires the Project Manager to be physically on site whenever construction work is being performed.

Certainly, to the extent that Terminal were to have named Mr. Dinallo as a Project Manager for a previous NJSDA procurement that had a similar on-site requirement, was awarded a contract for that procurement, and that project was currently underway, the naming of Mr. Dinallo in the instant procurement would be problematic.³ However, a review of the facts present in this case confirm that is not the case here.

With respect to the Elizabeth Project, and as noted by Terminal in its response to this Protest, the requirement that the named Project Manager be physically on the Project Site while Work is being performed, is not and never was a requirement for the Elizabeth Project. Additionally, Epic's reference to a separate project (i.e. the Trenton-New Elementary School Project), which does have the same on-site requirement as the instant Procurement, is of no relevance, as Terminal was not the ultimate awardee for the Trenton project. As such, if Terminal is ultimately awarded the Contract for this Procurement, Mr. Dinallo will only be required to be physically on site at one location: the West New York Project, and only while Work is being performed there.

Epic's concerns regarding Mr. Dinallo's ability to perform as required by the terms of the Procurement given his other responsibilities are entirely speculative and are based on unsubstantiated assumptions about events that may/might/could possibly happen. Terminal has represented in its certified written submissions for the Procurement, as well as in its responses to the instant bid protest, that it can and will comply with the Project Manager requirement of the RFP for the Procurement. Moreover, if Terminal is the ultimate awardee for the Procurement, this requirement will be formalized through its ultimate execution of the Contract. Absent a showing of contrary facts, the NJSDA is entitled to rely on the representations made by Terminal, and as formally memorialized in a fully executed Contract.

In sum, Epic has provided no legal basis or justification that Terminal's bid submission violates either the express terms of the RFP, the NJSDA's Procurement statutes and/or governing regulations, or applicable case law. Regardless, Epic would have the NJSDA make a speculative determination on intangible

² As noted in the Introduction Section of the RFP, "terms used in this RFP shall have the meanings indicated in the definitions included in the form of Design-Build Agreement." Accordingly, "Work" is defined as "the portion of the obligations of the Design Builder in which the Design-Builder constructs the Project in accordance with the terms of the Design-Build Contract Documents." (Emphasis added).

³ Likewise, should Terminal ultimately be awarded the Contract as a result of this Procurement, Terminal would appear to be precluded from naming Mr. Dinallo as a proposed Project Manager with similar on-site requirements in a future NJSDA procurement while Work was still in progress on this Project.

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possibilities and decline to award Terminal a contract after it was ranked as the highest firm based upon the thorough evaluation of the voluminous written technical submissions, interviews and Terminal's Price Proposal. The NJSDA declines to do so.

Conclusion

For the foregoing reasons, Epic's bid protest is denied.

This is a Final Agency Decision.

Finally, while not dispositive to this Final Agency Decision, the NJSDA is otherwise constrained to comment on Epic's allegations of purported bias and unfairness and suggestions of flaws and undue subjectivity in the NJSDA's procurement processes. Epic has provided no evidence that even remotely substantiates these assertions.

Indeed, the NJSDA notes that Epic was last awarded a Design-Build Contract by the NJSDA in 2020 in excess of \$45,000,000.00. Since that time, the NJSDA has awarded a total of four (4) other Design-Build Contracts (one of which, Epic did not even bid upon). The four (4) contracts were awarded to three (3) different firms, with only one contract (i.e. the Elizabeth Project) being awarded to Terminal. Of note, the evaluation process utilized for the instant Procurement does not differ substantively from that used for the procurement of the Contract that Epic was awarded in 2020. The NJSDA further notes that, since 2020, NJSDA has awarded Epic a Multi-Project Construction Management contract in 2024 and a General Contractor Task Order Agreement in 2022 with a not-to exceed amount of \$7,500,000.00, with no less than six (6) Construction Task Orders issued to Epic under that Agreement or its predecessor. Suffice it to say, in and of themselves, these facts belie Epic's unfounded characterizations as to bias, unfairness or flawed processes on the part of the NJSDA, as Epic has consistently been awarded contracts as part of the NJSDA's school facilities construction program.

Sincerely,

Laurette J. Pitts
Vice President and Chief Financial Officer

cc: Manuel M. Da Silva, NJSDA Chief Executive Officer
Ramy Kamel, NJSDA Vice President, Program and Construction Operations
Janice Venables, NJSDA Vice President, Corporate Governance
Sean Murphy, NJSDA Managing Director of Procurement
Joseph Lucarelli, NJSDA Program Director
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Desmond H. O'Neill, NJSDA Senior Counsel
Donald N. Dinallo, President and Chief Executive Officer, Terminal Construction Corporation
Andrew R. Schneidman, Executive Vice President and General Counsel, Terminal Construction Corporation