

**FINAL AGENCY DECISION**

November 25, 2014

Mr. Dilip Verghese, President
D&K Construction Company Inc.
155 Union Avenue
Middlesex, New Jersey 08846

**Re: Newark West Side High School Site Improvements Contract
NJSDA Contract No. NE-0008-N01
Bid Protest
Final Agency Decision**

Dear Mr. Verghese:

The New Jersey Schools Development Authority (“NJSDA”) is in receipt of your November 13, 2014 formal bid protest letter on behalf of D&K Construction Company, Inc. (“D&K”) relating to the above-referenced procurement for abatement and demolition services (the “Procurement”). This letter is the NJSDA’s formal response and final agency decision on D&K’s bid protest.

In its October 8, 2014 advertisement of the Procurement, the NJSDA included a Construction Cost Estimate for the Contract work of \$1,394,164.00. Bids were received and opened on Friday, November 7, 2014. Upon the opening of the bids, Tricon Enterprises, Inc. (“Tricon”) was the apparent low bidder, with a lump sum price of \$800,000. D&K was the second lowest bidder, with a lump sum price of \$1,378,812.

In its protest letter, D&K expresses its belief, based upon otherwise unspecified “here say” [sic], that rather than performing a dry demolition on seven (7) of the eight (8) structures designated for demolition in the bid documents, Tricon instead intends to perform “wet” demolition on all eight (8) structures. D&K believes that this purported intention to perform a “wet” demolition of all structures explains the substantial difference between Tricon’s bid and that of D&K.

D&K contends that “it seems impossible that Tricon Enterprises could perform the work in accordance with the contract documents when you add up all the associated cost to complete this project.” D&K provides no substantive calculations, documentation or other evidence to support this contention.

Asbestos Containing Materials (“ACM”) are present in each of the structures to be demolished. The Contract documents contemplate that seven (7) of the structures will be abated for ACM and demolished using “dry” demolition methods. This means that the structures will first be fully abated for ACM and thereafter demolished. The Contract documents contemplate that only the structure located at 345 11th Street is to be abated and demolished using “wet” demolition methods. In a wet demolition, the abatement and demolition occur simultaneously, with the structure being demolished while being wetted down to prevent the airborne transmission of ACM.

Mr. Dilip Verghese, President
November 25, 2014
Page 2

Wet demolition is less expensive to perform than dry demolition, but it results in the mixture of ACM with non-ACM demolition debris, greatly increasing both the volume of materials that must be disposed of as hazardous materials and the cost of such disposal. Dry demolition, by contrast, is more expensive to perform than wet demolition, but hazardous waste disposal volume and costs are significantly reduced in comparison to a wet demolition.

On Monday, November 10, 2014, NJSDA personnel conducted a telephone conference with Tricon verifying that Tricon's price proposal included all required scope elements and that Tricon is prepared to perform the full Contract scope of work for the lump sum price of \$800,000. During that conference, Tricon's President, Denise Petrizzo, represented that, as specified in the Contract documents, Tricon intends to perform wet demolition only on one structure, with the remaining structures to be abated and then demolished "dry".

Tricon responded to D&K's protest by letter dated November 14, 2014. Tricon's letter, a copy of which is attached, confirms that Tricon's bid was based upon only one structure undergoing wet demolition and that the bid price submitted "is based upon the project description as set forth in the bid documents, specification and addenda."

The foregoing demonstrates that Tricon is fully cognizant of the requirements imposed by the Contract documents and has declared that it intends to perform in accordance with the requirements of the Contract documents for the bid price. Accordingly, D&K's protest is without merit and is hereby rejected.

This is a Final Agency Decision.

Sincerely,



Donald R. Guarriello
Vice President and Chief Financial Officer

cc: Charles B. McKenna, NJSDA Chief Executive Officer
Jason Ballard, NJSDA Chief of Staff
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
Aidita Milsted, NJSDA Program Director
Sean Murphy, NJSDA Director of Procurement
Albert D. Barnes, NJSDA Chief Counsel
Christopher Geary, NJSDA Assistant Counsel
Naimish A. Kathiari, NJSDA Procurement Analyst
Denise Petrizzo, President, Tricon Enterprises Incorporated



November 14, 2014

NJ Schools Development Authority
32 East Front Street
Trenton, NJ 08625

Attention: Mr. Naimish A. Kathiari
Re.: NE-0008-N01 – West Side High School Site Improvements
Subject: Response to D&K protest letter

Dear Mr. Kathiari;

Tricon Enterprises is a responsible, experienced demolition and abatement contractor with a proven track record completing similar projects for the NJ SDA and other municipal, government and private owners.

Contrary to the allegations in D&K's November 13, 2014 letter, Tricon did NOT base the submitted price on utilizing wet demolition methods at any structure except the one specified in the bid documents. The bid price submitted by Tricon Enterprises, Inc. is based upon the project description as set forth in the bid documents, specification and addenda.

While subcontractors may appear to have "responsible numbers" or "seem to be prepared," Tricon is a licensed Asbestos Abatement Contractor with first-hand knowledge of Asbestos Abatement and an extensive resume of demolition and abatement projects.

Tricon is confident that the submitted project price is correct and that the NJ SDA can award this project with confidence.

If you require any additional information regarding this matter please feel free to contact us.

Respectfully,

A handwritten signature in black ink, appearing to read "Denis Petrizzo", is written over a white background.

Tricon Enterprises, Inc.
Denis Petrizzo
President