

STATE OF NEW JERSEY
DEPARTMENT OF EDUCATION
OFFICE OF FISCAL ACCOUNTABILITY AND COMPLIANCE
INVESTIGATIONS UNIT

STERLING REGIONAL SCHOOL DISTRICT
SHARED SERVICES BIDDING REVIEW
OFAC CASE #INV-024-18

REPORT OF EXAMINATION

APRIL 2019

STERLING REGIONAL SCHOOL DISTRICT SHARED SERVICES BIDDING REVIEW

INVESTIGATIVE SUMMARY

The New Jersey Department of Education, Office of Fiscal Accountability and Compliance (OFAC), completed a review of the bidding and purchasing procedures utilized by South Jersey Technology Partnership (SJTP) for two projects: an HVAC project in the Black Horse Pike Regional School District (Black Horse) and a security camera project in the Piscataway Township Schools (Piscataway).

By way of brief background, SJTP was an organization operated by the Sterling Regional School District (Sterling) that, as determined by the Department of Community Affairs (DCA), in a letter dated August 24, 2016, was purchasing services on behalf of other entities through "shared services" agreements and was financing these agreements through Regular Operating District (ROD) grants from the New Jersey Schools Development Authority (SDA). In the letter, the DCA concluded that the "shared services" agreements were actually cooperative purchasing systems that SJTP was required to register and submit for approval to the DCA, neither of which occurred. A copy of the August 24, 2016, letter is attached to this report for reference. Effective July 1, 2018, the Sterling Board of Education dissolved the construction division of SJTP.

A review of SJTP's HVAC project for Black Horse and the security camera project for Piscataway was initiated by the OFAC upon notification by the SDA of potential violations of the New Jersey Public School Contracts Law (PSCL), N.J.S.A. 18A:18A-1 et seq., separate and apart from the cooperative purchasing system violations already cited by the DCA.

As set forth in further detail below, the results of the OFAC review confirmed that SJTP's bidding and purchasing procedures for the above-mentioned projects were noncompliant with the provisions of the PSCL.

FINDINGS

HVAC Project at Black Horse

With regard to the HVAC project at Black Horse, the following violations are noted:

N.J.S.A. 18A:18A-2o. defines "Contract year" as "the period of 12 consecutive months following the award of a contract."

N.J.S.A. 18A:18A-3 Purchases, contracts and agreements not requiring advertising provides in relevant part:

a. "When the cost or price of any contract awarded by the purchasing agent in the aggregate, does not exceed *in a contract year* [emphasis added] the total sum of \$17,500, the contract may be awarded by a purchasing agent when so authorized by resolution of the board of education without public advertising for bids and bidding therefor, except that the board of education may adopt a resolution to set a lower threshold for the receipt of public bids or the solicitation of competitive

quotations. If the purchasing agent possesses a qualified purchasing agent certificate . . . the bid threshold may be up to . . . [\$40,000 as of July 2015].”

N.J.S.A. 18A:18A-4 Contracts and agreements requiring advertising provides in relevant part:

a. “Every contract for the provision or performance of any goods or services, the cost of which in the aggregate exceeds the bid threshold, shall be awarded only by resolution of the board of education to the lowest responsible bidder after public advertising for bids and bidding therefor, except as is provided otherwise in this chapter or specifically by any other law.”

On behalf of SJTP, Black Horse prepared two invoices for one vendor that, in the aggregate, exceeded the bid threshold for the applicable contract year. Additionally, the review determined SJTP did not advertise for bids in relation to this contract. Accordingly, N.J.S.A. 18A:18A-3 and N.J.S.A. 18A:18A-4 of the PSCL were violated.

N.J.S.A. 18A:18A-8 Contracts not to be divided provides:

a. “*No contract in the aggregate which is single in character* [emphasis added] or which necessarily or by reason of the quantities required to effectuate the purpose of the contract includes the provision or performance of additional goods or services, *shall be divided* [emphasis added], so as to bring it or any of the parts thereof under the bid threshold, for the purpose of dispensing with the requirement of public advertising and bidding therefor.”

b. “In contracting for the provision or performance of any goods or services included in or incidental to the provision or performance of *any work which is single in character* [emphasis added] or inclusive of the provision or performance of additional goods or services, all of the goods or services requisite for the completion of such contract *shall be included in one contract* [emphasis added].”

An examination of the two invoices referenced above revealed there are two different purchase order numbers; however, the dates on the invoices are identical, the project identifiers (Highland HS HVAC) are identical, and although sparse, the descriptions are identical. The total amount of these two nearly identical invoices is \$59,850.00. Further examination of the documents revealed that the work, in the aggregate, was single in character, was arguably divided to avoid the bidding threshold, and should have been included in one contract. As such, the provisions of N.J.S.A. 18A:18A-8a and b were violated.

CONCLUSION

For the reasons set forth above, Sterling and Black Horse violated provisions of N.J.S.A. 18A:18A-3, N.J.S.A. 18A:18A-4 and N.J.S.A. 18A:18A-8a and b.

RECOMMENDATION

Sterling must develop and submit a corrective action plan to the OFAC identifying the procedures that will be implemented to ensure future compliance with the applicable provisions of N.J.S.A. 18A:18A-3, N.J.S.A. 18A:18A-4 and N.J.S.A. 18A:18A-8a and b.¹

A copy of this report will be forwarded to the SDA for further review and to take whatever action it deems appropriate.

SC Project at Piscataway

A review of the bidding and purchasing procedures utilized by SJTP for the SC project at Piscataway revealed SJTP did not advertise for or require sealed bids for the project.

CONCLUSION

For the reasons set forth above, Sterling and Piscataway violated provisions of N.J.S.A. 18A:18A-4.

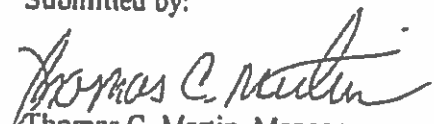
RECOMMENDATION

Sterling must develop and submit a corrective action plan to the OFAC identifying the procedures that will be implemented to ensure future compliance with the applicable provisions of N.J.S.A. 18A:18A-4.

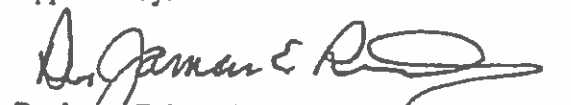
¹Although SJTP, as a shared services entity, has been dissolved, a CAP is still required to be submitted by Sterling.

Throughout the course of this investigation, it was brought to the OFAC's attention that the SDA has not issued payments to Sterling for projects that SJTP completed on behalf of school districts pursuant to the ROD grants awarded by the SDA. It is the OFAC's understanding that the SDA has concerns regarding some of the terms of the contracts between SJTP and the school districts. In light of the fact that the school districts negotiated and agreed to the terms of the contracts with SJTP, and SJTP provided the services required under the contracts, the OFAC does not have any findings regarding the private contracts between SJTP and the school districts. However, a copy of this report will be forwarded to the SDA for further review and to take whatever action it deems appropriate.

Submitted by:


Thomas C. Martin, Manager
Investigations Unit

Approved by:


Dr. Jamar E. Purnsley, Acting Director
Office of Fiscal Accountability and Compliance

Investigator:

Timothy G. Boney

**NEW JERSEY DEPARTMENT OF EDUCATION
OFFICE OF FISCAL ACCOUNTABILITY AND COMPLIANCE
CORRECTIVE ACTION PLAN
OFAC CASE #INV-024-18**

SCHOOL DISTRICT NAME Sterling Regional High School District COUNTY Camden

TYPE OF EXAMINATION SJTP Shared Services Bidding Review

DATE OF BOARD MEETING April 11, 2019

CONTACT PERSON Joanne G. Augustine

TELEPHONE NUMBER (856) 882-1171 FAX NUMBER (856) 784-7823

RECOMMENDATION NUMBER	CORRECTIVE ACTION	METHOD OF IMPLEMENTATION	INDIVIDUAL RESPONSIBLE FOR IMPLEMENTATION	COMPLETION DATE OF IMPLEMENTATION
1	Contracts exceeding the bid threshold will be publicly advertised for bids as per N.J.S.A. 18A:18A-3 and 18A:18A-4 and will not be divided into separate parts so as to bring it under the bid threshold and public advertising requirement as per N.J.S.A. 18A:18A-8.	<p>The Business Administrator will consult with architects, engineers and other professional service providers to ensure future compliance with N.J.S.A. 18A:18A-3, N.J.S.A. 18A:18A-4, and N.J.S.A. 18A:18A-8A and b.</p> <p>Business office staff shall follow purchasing procedures established by the Business Administrator, and all purchases shall be reviewed by the Business Administrator.</p> <p>The Business Administrator shall establish a method of tracking all purchases made under the bid threshold each contract year.</p>	Joanne G. Augustine, Business Administrator/ Board Secretary	April 11, 2019 and Beyond

2	<p>Contracts exceeding the bid threshold will be publicly advertised for bids as per N.J.S.A. 18A:18A-3 and 18A:18A-4 and will not be divided into separate parts so as to bring it under the bid threshold and public advertising requirement as per N.J.S.A. 18A:18A-8.</p>	<p>On 11/17/16, Sterling BOE approved the cessation of operations of SJTP Tech Division effective July 1, 2017. On 5/3/18 Sterling BOE Approved the cessation of operations of SJTP Construction Division. No new contracts or work had been taken on since 2016. The elimination of SJTP has streamlined the procurement procedures. The School Business Administrator continues to work to resolve outstanding issues related to SJTP's prior operations.</p>	<p>Joanne G. Augustine, Business Administrator/ Board Secretary</p>	<p>Ongoing since</p>
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Chief School Administrator

4-12-19
Date


Board Secretary/Business Administrator

4/12/19
Date