

STATE OF FLORIDA  
DEPARTMENT OF CORRECTIONS

FEDERAL SUPPLY USA,

Petitioner,

v.

Case No.: DC13-86

DEPARTMENT OF CORRECTIONS,

Respondent.

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FINAL ORDER

This matter comes before the State of Florida, Department of Corrections ("Department") for final agency action. Pursuant to Section 120.57(3), Florida Statutes, the above styled cause was submitted for a formal hearing on August 13, 2013, at the Florida Division of Administrative Hearings ("DOAH").

At hearing, upon the Department's Motion for Dismissal of Petition and to Relinquish Jurisdiction the Court heard substantive legal arguments from both Petitioner and the Department as to whether Petitioner's response to a competitive procurement, Invitation to Bid 12-DC-8403 ("ITB"), complied with the mandatory provisions of Section 287.084(2), Florida Statutes and section 5 of the ITB.

On September 6, 2013, the Court issued an order ("Order") in favor of the Department dismissing Petitioner's bid protest petition and relinquishing jurisdiction to the Department. In the Order, the Court specifically found that Petitioner failed to comply with the mandatory

provisions of Section 287.084(2), Florida Statutes, and section 5 of the ITB. In upholding the Department's determination to reject Petitioner's bid the Court stated:

"Agencies are creatures of statute and only possess the authority granted to them by those statutes. In this case, the accompaniment of the certification with a foreign bid is a statutory requirement and cannot be waived by a state agency." *See*, Order Dismissing Case and Relinquishing Jurisdiction, pg. 2, attached hereto as (Exhibit "A").

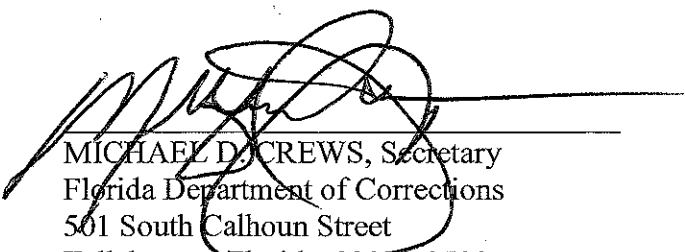
After reviewing this matter and being fully advised in the premises, the Department makes the following findings:

1. The Department adopts in its entirety and incorporates into this Final Order the Order Dismissing Case and Relinquishing Jurisdiction issued by the Administrative Law Judge on September 6, 2013.

2. The Department hereby dismisses Federal Supply's formal bid protest petition consistent with the Order Dismissing Case and Relinquishing Jurisdiction issued by the Administrative Law Judge on September 6, 2013.

WHEREFORE, it is hereby ordered and adjudged that this matter is dismissed with prejudice.

DONE AND ORDERED this 10 day of September, 2013, in Tallahassee, Florida.



MICHAEL D. CREWS, Secretary  
Florida Department of Corrections  
501 South Calhoun Street  
Tallahassee, Florida 32399-2500

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

FEDERAL SUPPLY USA,

Petitioner,

vs.

Case No. 13-2897BID

DEPARTMENT OF CORRECTIONS,

Respondent.

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ORDER DISMISSING CASE AND RELINQUISHING JURISDICTION

This cause came before the undersigned on Respondent's Motion for Dismissal of Petition and to Relinquish Jurisdiction filed on August 13, 2013. The undersigned being fully advised,

Section 287.084(2), Florida Statutes, and section 5 of the ITB states:

"A vendor whose principal place of business is outside this state must accompany any written bid, proposal, or reply documents with a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that state to its own business entities whose principal places of business are in that foreign state in the letting of any or all public contracts." (emphasis supplied).

On July 22, 2013, Petitioner, an out-of-state vendor, whose principal place of business is Illinois, filed its Formal Written Protest and Petition for Administrative Hearing (Protest) pursuant to sections 120.569, 120.57(1) and (3), Florida Statutes, and chapters 28-106, Florida Administrative Code.



However, Petitioner's bid on ITB 12-DC-8403 for kitchen equipment failed to include a written certification (Certification) from an attorney within the foreign state, declaring the existence or absence of any preferences granted to businesses within the foreign state as required by the statute. As a consequence, Petitioner's bid on the ITB was rejected because Petitioner failed to include the statutorily required Certification that is mandatory for all out-of-state vendors bidding on the ITB.

Agencies are creatures of statute and only possess the authority granted to them by those statutes. In this case, the accompaniment of the certification with a foreign bid is a statutory requirement and cannot be waived by a state agency.

Therefore, the undersigned being fully advised, it is,

ORDERED that:

1. The final hearing scheduled for August 20, 2013, is canceled.

2. Jurisdiction is relinquished to Florida Department of Corrections and the file of the Division of Administrative Hearings is closed.

DONE AND ORDERED this 6th day of September, 2013, in Tallahassee, Leon County, Florida.

*Diane Cleavinger*

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DIANE CLEAVINGER  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 6th day of September, 2013.

Notice of Right to Appeal

This Order constitutes final agency action. Any party to this proceeding has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by filing a Notice of Appeal, pursuant to Florida Rules of Appellate Procedure 9.110 and 9.190, with the clerk of the Department in the Office of General Counsel, 501 South Calhoun Street, Tallahassee, Florida 32399; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Final Order is filed with the clerk of the Department.

Copies Furnished to:

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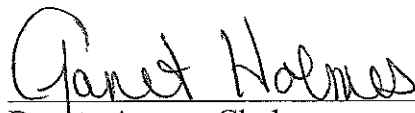
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Filed in the official records of the Florida Department of Corrections on this 10<sup>th</sup> day of September, 2013.

  
Deputy Agency Clerk