



**Department of
Environmental
Protection**

59-17 Junction Boulevard
Flushing, New York
11373-5108

**Christopher O. Ward
Commissioner**

Stuart M. Erdfarb, P.E.
AGENCY CHIEF CONTRACTING OFFICER

Tel (718) 595-3300
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STUE@DEP.NYC.GOV

April 12, 2002

Paul H. Singlevich
Project Executive
PAL Environmental Safety Corp.
43-09 Vernon Blvd.
Long Island City, New York 11101

Re: **Emergency Contract ROF-REM2
Non-Responsiveness Determination**

Dear Mr. Singlevich:

Competitive sealed bids for Contract **ROF-REM2, for EMERGENCY ROOFTOP AND FACADE REMEDIATION IN THE VICINITY OF THE WORLD TRADE CENTER** (the "Contract") were opened on April 11, 2002. In accordance with §2-07 of the New York City Procurement Policy Board Rules ("PPB Rules"), I have determined that the bid submitted by **PAL Environmental Safety Corp.** ("PAL") for the Contract is non-responsive and must therefore be rejected. The determination, as set forth herein, is pursuant to §2-07(c)(1) of the PPB Rules.

§2-07(c)(2) of the PPB Rules states that one of the factors affecting the responsiveness of a bid is "compliance with all material terms and conditions of the solicitation." The solicitation for the Contract was for a competitive sealed bid (not for a proposal), and nothing other than pricing can be considered in the selection of the apparent low bidder. However, in addition to its pricing, PAL submitted a two page letter containing a "clarification" as part of its "proposal." Any such clarification should have been submitted prior to the bid opening date and cannot be entertained as part of the bid. By way of inclusion of assumptions and qualifications to its pricing, PAL did not properly respond to the solicitation, thereby rendering its bid non-responsive. PAL's bid must therefore be rejected.

Pursuant to §2-07(e) of the PPB Rules, you have the right to appeal this determination. If you decide to appeal, you have five days from the receipt of this letter to appeal. Receipt of notice shall be deemed to be no later than five days from the date of mailing or upon delivery, if delivered. Filing of the appeal shall be accomplished by actual delivery of the appeal document to the office of the Commissioner's designee, First Deputy Commissioner Diana Chapin. The appeal shall be delivered to:

**First Deputy Commissioner Diana Chapin
NYC Department of Environmental Protection
59-17 Junction Boulevard, 19th Floor
Corona, New York 11368**



www.nyc.gov/dep

(718) DEP-HELP

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A copy of your appeal shall be forwarded to the undersigned at the letterhead address (17th floor.)

The Commissioner's decision of your appeal of a determination of non-responsiveness shall be final.

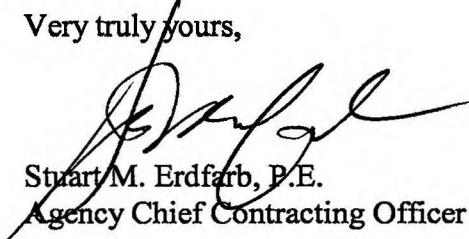
In accordance with §2-07(e)(1) of the PPB Rules, if you choose to appeal, you are hereby notified to send a copy of your appeal for the purposes of information to:

**NYC Comptroller
Office of Contract Administration
One Centre Street, Rm. 835
New York, New York 10007**

The appeal shall be in writing and shall briefly state all the facts or other basis upon which the bidder contests the Agency's finding of non-responsiveness. Supporting documentation shall be included.

However, inasmuch as the Contract has been solicited pursuant to a Declaration of Emergency, in order to protect substantial City interests, the Contract must be awarded without delay. Therefore, in accordance with §2-07(e)(3) of the PPB Rules, the stay of award will be lifted, and the responsible bidder that submitted the lowest responsive bid will be ordered to start work immediately.

Very truly yours,



Stuart M. Erdfarb, P.E.
Agency Chief Contracting Officer

xc: M. Stoller (PPB)

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bcc: Ward
Chapin
Schiano
Resnick
Burrus
Hall
Wasserman
Katz
Avaltroni
Smyth
Cushman (LAW)