



August 30, 2002

**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
Fax (718) 595-3278
STUE@DEP.NYC.GOV

Akinyemi Babatunda
President
Xaren Corporation
45-09 Greenpoint Avenue, Suite 200
Long Island City, New York 11104

**Re: Contract WTC-ARA
PIN 82603WTCIARA
Non-Responsiveness Determination**

Dear Mr. Babatunda:

Competitive sealed bids for Contract **WTC-ARA, for Indoor Dust Cleaning Program in the Vicinity of the World Trade Center Site - Quadrant A**, (the "Contract") were opened on August 26, 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 **Xaren Corporation** ("Xaren") for the Contract is non-responsive and must therefore be rejected. The determination, as set forth herein, is pursuant to §2-07(c)(2) 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." Included in the bid package for the Contract was a memo to all prospective bidders stating that, "Should the low bidder fail to submit the required documents [i.e. the insurance certificates] within the 24 hour period, the bid shall be rejected." Xaren failed to submit the required insurance certificates within the time period specified. Xaren's bid is therefore 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. The appeal shall be delivered to:

**Christopher O. Ward
Commissioner
NYC Department of Environmental Protection
59-17 Junction Boulevard, 19th Floor
Flushing, New York 11373**

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.



www.nyc.gov/dep

(718) DEP-HELP

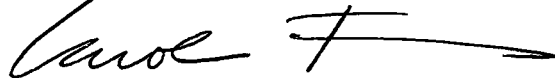
-2-

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.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stuart M. Erdfarb", with a long horizontal flourish extending to the right.

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

xc: M. Stoller (PPB)

-3-

bcc: Hoffer
Alvatroni
Smyth
Schiano
Resnick
Burrus
Hall
Wasserman