



# State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
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December 31, 2015

Via Electronic Mail [[levysport@verizon.com](mailto:levysport@verizon.com)] and USPS Regular Mail

Michael D. Levy, President  
Levy's Sports Inc.  
6116 Bergenline Avenue  
West New York, NJ 07093

RE: Protest of Notice of Proposal Rejection  
RFP #16-X-24078 Sporting Goods - Statewide

Dear Mr. Levy:

This letter is in response to your letter of protest dated December 11, 2015, and subsequent supplemental information referencing the subject Request for Proposal (RFP) and regarding the proposal submitted by Levy's Sports Inc. (Levy) to the Procurement Bureau of the Division of Purchase and Property (Division). The record of this procurement notes that Levy's proposal was rejected for failing to include a *Signatory Page*. In your correspondences, you question "which page is the '*Signatory Page*'" and request the opportunity to submit the missing document post-proposal submission to fulfil the RFP requirements.

I have reviewed the record of this procurement, including the RFP, Levy's proposal, and relevant statutes, regulations, and case law. This review has provided me with the information necessary to determine the facts of this matter and to render an informed determination on the merits of Levy's protest.

By way of the background, the subject RFP was issued by the Bureau on behalf of using agencies to solicit proposals for sporting goods. RFP § 1.1 *Purpose and Intent*. The intent of the RFP is to award one "contract per brand, per category to those responsible [b]idders whose proposals, conforming to this RFP are most advantageous to the State, price and other factors considered." Ibid.

The subject solicitation was comprised of the RFP and other documents, including the *Signatory Page*. All RFP-required documents were available as downloadable pdf documents on the Division's website. The *Signatory Page* is addressed in numerous locations in the RFP and is specifically listed under RFP Section 4.4.1, *Forms, Registrations and Certifications Required with Proposal*:

#### 4.4.1.1 SIGNATORY PAGE

The Bidder shall complete, including signature of an authorized representative of the Bidder, and submit the Signatory Page accompanying this RFP. If the Bidder is a limited partnership, the

Signatory Page must be signed by a general partner. If the Bidder is a joint venture, the Signatory Page must be signed by a principal of each party to the joint venture. Failure to comply will result in rejection of the proposal.

**Note: A bidder's written signature on the Signatory Page, or entry of a Personal Identification Number (PIN) if using the eBid system, shall not serve as a certifying signature on the forms comprising the NJ STANDARD RFP FORMS document. (See 4.4.1.2)**

[(Emphasis in original.)]

Furthermore, as a courtesy to all bidders, the Division provided a Proposal Checklist as an accompaniment to the RFP. The Checklist included the following:

**FORMS THAT MUST BE SUBMITTED WITH YOUR PROPOSAL:**

- RFP Signatory Page with physical signature or PIN (PIN is for eBid submission ONLY)
- Completed Price Sheets as instructed in Section 4.4.5 of the RFP
- Completed and signed Ownership Disclosure Form\*
- Completed and signed Disclosure of Investments in Iran Form\*
- Bid Specific Form 1 – Price List

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*\* The Ownership Disclosure, Disclosure of Investigations and Other Actions Involving Bidder, and the Disclosure of Investments in Iran forms MUST each contain either a physical or typed signature (typed signatures are only acceptable for eBid submissions). . . .*

Pursuant to N.J.A.C. 17:12-2.2,<sup>1</sup> a bidder's proposal must "[c]ontain all RFP-required certifications, forms, and attachments, completed and signed as required" or "be subject to automatic rejection." As set forth in RFP and 4.4.1 and 4.4.1.1, the submission of a completed and signed *Signatory Page* with the bidder's proposal was required.

Here, the Hearing Unit has confirmed that the *Signatory Page* was available to all bidders for download and submission. However, the record indicates that Levy's proposal failed to include the required *Signatory Page*. Notwithstanding Levy's interest in competing for this procurement, it would not be in the State's best interests to allow a bidder who did not provide the required information to be eligible to participate in the procurement process. Such acceptance would unlevel the bidders' playing field, as the State received responsive proposals in which all necessary documents and information were provided as required. The deficiency at issue cannot be remedied after the proposal submission deadline, as acceptance of Levy's proposal under these circumstances would be contrary to the provisions of governing statutes and would provide Levy with disclamation options not available to those bidders whose proposals were fully responsive. In light of the findings set forth above, I must deny your request for eligibility to participate in the competition for the subject contract. This is my final agency decision on this matter.

This is an unfortunate situation for the State, as the Division encourages competition and appreciates the time and effort put forth in preparing and submitting Levy's proposal. Thank you for your

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<sup>1</sup> The Division's administrative rules governing its procurement programs are set forth in N.J.A.C. 17:12. These rules can be accessed at <http://www.state.nj.us/treasury/purchase/AdminCode.shtml>.

company's continuing interest in doing business with the State of New Jersey and for registering your business with **NJ START** at [www.njstart.gov](http://www.njstart.gov), the State of New Jersey's new eProcurement system.

Sincerely,

  
Maurice Griffin  
Chief Hearing Officer

MG:DF

c: D. Reinert  
J. Kemery  
A. Miller  
A. Nelson