



# State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR  
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August 15, 2016

Via Electronic Mail [[greg@genelsafety.com](mailto:greg@genelsafety.com)] and USPS Regular Mail

Gregory Krannich, President  
Gen-El Safety & Industrial Products, LLC  
Occupational Health & Safety Equipment  
961 Route 10 East, Suite 2M  
Randolph, New Jersey 07869

RE: Protest of Notice of Proposal Rejection  
Bid Solicitation {Request for Proposal} #16DPP00020 – Protective Clothing and Footwear

Dear Mr. Krannich:

This letter is in response to your email of July 13, 2016, on behalf of Gen-El Safety & Industrial Products, LLC (Gen-El), acknowledging receipt of a Notice of Proposal Rejection (Notice) sent by the Division of Purchase and Property's (Division) Proposal Review Unit, and in which you included a signed and completed *Disclosure of Investment Activities in Iran* Form. The Notice indicated that Gen-El failed to include a signed/completed *Disclosure of Investment Activities in Iran* Form with its proposal. I treat your July 13, 2016 email as Gen-El's protest of the Notice.

I have reviewed the record of this procurement, including the Bid Solicitation ({Request for Proposal} (RFP)), Gen-El's proposal, the 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 Gen-El's protest.

By way of background, the subject RFP was issued by the Division's Procurement Bureau (Bureau) on behalf of various New Jersey Agencies and Cooperative Purchasing Program Participants for Protective Clothing and Footwear. RFP § 1.1 *Purpose and Intent*. The intent of the RFP is to award Master Blanket Purchase Orders (Blanket P.O.s {Contracts}) to those responsible Vendors {Bidders} (bidders) whose proposals, conforming to this RFP are most advantageous to the State, price and other factors considered. *Ibid.* Awards will be made by line item. *Ibid.* This is a procurement of services similar to those offered by term contract T0046. RFP § 1.2 *Background*.

On June 28, 2016, the Proposal Review Unit opened the proposals received by the submission deadline of 2:00 p.m. After conducting a review of the proposals submitted, the Proposal Review Unit found that Gen-El failed to submit a signed/completed *Disclosure of Investment Activities in Iran* Form. Accordingly, the Proposal Review Unit issued a Notice of

Proposal Rejection. In response to the Notice of Proposal Rejection, on July 13, 2016, Gen-El submitted an email protest and included a completed *Disclosure of Investment Activities in Iran* Form dated May 23, 2016. The protest email stated as follows:

I have received your notice of proposal rejection for a required form not signed or completed, ie. (sic) The Disclosure of Investment Activities in Iran Form. I had completed and signed the form and to the best of my knowledge, I included the form along with my proposal. Being that this is a new and confusing method to submit proposals to the State, I am hoping that you will accept the attached form now. We have been awarded this bid for the past many years and hope that this does not affect your decision at this time.

The above-referenced procurement was comprised of the RFP and other documents, one of which was the *Disclosure of Investment Activities in Iran* Form. This form is addressed in RFP Section 4.0, *Quote {Proposal} Preparation and Submission*. The relevant text reads as follows:

**4.4.1.2 NJ STANDARD BID SOLICITATION {RFP} FORMS REQUIRED WITH THE QUOTE {PROPOSAL}**

VENDOR'S {BIDDER'S} FAILURE TO COMPLETE, SIGN AND SUBMIT THE FORMS IN SECTION 4.4.1.2 SHALL BE CAUSE TO REJECT ITS QUOTE {PROPOSAL} AS NON-RESPONSIVE.

**4.4.1.2.2 DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM**

Pursuant to N.J.S.A. 52:32-58, the Vendor {Bidder} must utilize this Disclosure of Investment Activities in Iran form to certify that neither the Vendor {Bidder}, nor one of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32-56(e)(3)), is listed on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither the Vendor {Bidder}, nor one of its parents, subsidiaries, and/or affiliates, is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If the Vendor {Bidder} is unable to so certify, the Vendor {Bidder} shall provide a detailed and precise description of such activities as directed on the form. **A Vendor's {Bidder's} failure to submit the completed and signed form with its quote {proposal} will result in the rejection of the quote {proposal} as non-responsive and preclude the award of a Blanket PO {Contract} to said Vendor {Bidder}.**










Vendors {Bidders} using NJSTART to submit a quote {proposal} shall make the appropriate certification on the "Maintain Terms and Categories" Tab within its profile by checking the box applicable to its firm's situation and completing the shortened NJSTART form if necessary. Vendors {Bidders} not using NJSTART to submit a quote {proposal} must complete the full version of the form located on the Division's website. The full version of the form is also available in NJSTART.

Vendors {Bidders} may refer to the QRGs "Vendor Forms" and "Attaching Files" for instructions on submitting the forms required by this section of the Bid Solicitation {RFP} through NJSTART. Vendors {Bidders} may also refer to the

QRG “Vendor Categories and Certifications” for additional instructions on completing shortened versions of required forms by completing certifications on the “Maintain Terms and Categories” Tab within its profile in NJSTART. QRGs are located on the NJSTART Vendor Support Page.

[(Emphasis added.)]

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

NJ START PROCUREMENT PROGRAM CHECKLIST		
Solicitation Number: 16DPP00020	Solicitation Title: Protective Clothing and Footwear	
This checklist was created as a guide to assist Bidders in preparing a complete and responsive proposal (quote) as part of the NJ START Procurement Program. It is only advisory in nature.		
It is the Bidder's responsibility to ensure that all requirements of the RFP/Bid Solicitation have been met.		
Forms with an NJ START icon can be accessed through the Maintain General Information section of the Vendor Profile. Forms that have a  icon next to them can be accessed on the Division website or by clicking on the icon.		
FORMS, REGISTRATIONS AND CERTIFICATIONS REQUIRED BY SECTION 4.4.1 THAT MUST BE SUBMITTED WITH THE VENDOR QUOTE (PROPOSAL)		
Offer and Acceptance - MUST BE PHYSICALLY SIGNED AND COMPLETED. SEE RFP SECTIONS 1.3.4 AND 4.4.1.1		
Disclosure of Investment Activities in Iran - Full Version - SEE SECTION 4.4.1.2.2	NJ START	
Disclosure of Investment Activities in Iran - Use with completed NJSTART Category ONLY - SEE SECTION 4.4.1.2.2	NJ START	
Ownership Disclosure - Full Version - SEE SECTION 4.4.1.2.1	NJ START	
Ownership Disclosure - Use with completed NJSTART Category ONLY - SEE SECTION 4.4.1.2.1	NJ START	
FORMS, REGISTRATIONS AND CERTIFICATIONS REQUIRED BY SECTION 4.4.2 THAT SHOULD BE SUBMITTED WITH THE VENDOR QUOTE (PROPOSAL) REQUIRED PRIOR TO CONTRACT AWARD		
Disclosure of Investigations and Other Actions Involving Bidder - Full Version - SEE SECTION 4.4.2.2	NJ START	
Disclosure of Investigations and Other Actions Involving Bidder - Use with completed NJSTART Category ONLY - SEE SECTION 4.4.2.2	NJ START	
ADDITIONAL VENDOR FORMS		
Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions (Instructions included) - SEE SECTION 7.1.1	NJ START	
Chapter 51/Executive Order 117 Q & A		
Affirmative Action Employee Information Report (Form AA302) - SEE SECTION 7.1.3 *Corresponding Instructions & EEO Language		
Instructions and EEO Language for Form AA302		

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 §§ 4.4.1.2 and 4.4.1.2.2, and as noted above, the submission of a completed and signed *Disclosure of Investment Activities in Iran* Form as part of a bidder's proposal was required.

In this case, the record indicates that Gen-El's proposal did not include a signed/completed *Disclosure of Investment Activities in Iran* Form as evidenced by a review of the documents submitted by Gen-El through the Division's NJSTART eProcurement (NJSTART) system, nor was the Form contained within Gen-El's NJSTART Vendor Profile. N.J.S.A. 52:32-58 and the RFP require that certification of the information contained in the *Disclosure of Investment Activities in Iran* Form be submitted at the time a proposal is submitted to the Division. However, the NJSTART system does not prevent a bidder from submitting a proposal without all required forms and documentation. The responsibility for the contents of the proposal, forms, or submittals necessarily and appropriately rests solely with the bidder. Here, unfortunately, Gen-El uploaded its proposal

<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>.

without the completed *Disclosure of Investment Activities in Iran* Form or other form of certification.

Notwithstanding Gen-El'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 information and documents were provided as required. The deficiency at issue cannot be remedied or waived after the proposal submission deadline, as acceptance of Gen-El's proposal under these circumstances would be contrary to the provisions of the governing statute and would provide Gen-El with disclamation options not available to those bidders whose proposals were fully responsive. In light of the findings set forth above, Gen-El is not eligible 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 Gen-El's proposal. Thank you for your company's continuing interest in doing business with the State of New Jersey and for registering your business with **NJSTART** at [www.njstart.gov](http://www.njstart.gov), the State of New Jersey's new eProcurement system.

Sincerely,

  
Maurice Griffin  
Chief Hearing Officer

c: J. Kerchner  
K. Thomas  
K. Popso  
A. Nelson