



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR  
33 WEST STATE STREET  
P. O. BOX 039  
TRENTON, NEW JERSEY 08625-0039  
<https://www.njstart.gov>

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

FORD M. SCUDDER  
*Acting State Treasurer*

JIGNASA DESAI-MCCLEARY  
*Director*

Telephone (609) 292-4886 / Facsimile (609) 984-2575

September 6, 2016

Via Electronic Mail [alexandra.howell@whitelodging.com] and USPS Regular Mail

Alexandra Howell, Sales Manager  
White Lodging/Marriott Teaneck at Glenpointe  
100 Frank W. Burr Boulevard  
Teaneck, New Jersey 07666

RE: Reconsideration: Protest of Notice of Proposal Rejection  
RFP #17-X-24267 - Conference, Banquet and Hotel Facility Rental - Statewide

Dear Ms. Howell:

This letter is in response to your email of August 17, 2016, on behalf of White Lodging/Marriott Teaneck at Glenpointe (Marriott Teaneck). In that email, you ask how Marriott Teaneck can be approved for a contract award for the services to be provided by this Request for Proposal (RFP). I treat your email as Marriott Teaneck's request for reconsideration of my August 17, 2016 final agency decision (FAD), which upheld the Division of Purchase and Property's (Division) Proposal Review Unit's rejection of Marriott Teaneck's proposal for failing to include a *Disclosure of Investment Activities in Iran* Form in response to the subject RFP.

I have reviewed the record of this procurement, including the RFP, Marriott Teaneck's proposal and reconsideration request, as well as 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 Marriott Teaneck's reconsideration request.

By way of background, the subject RFP was issued by the Division's Procurement Bureau ("Bureau") on behalf of the New Jersey Agencies and State Cooperative Purchasing Program Participants for rental of conference, banquet and hotel facilities. RFP § 1.1 *Purpose and Intent*. The intent of the RFP is "to award contracts to those responsible Bidders whose proposals, conforming to this RFP are most advantageous to the State, price and other factors considered." *Ibid*. This is a procurement of services similar to those offered by term contract T0364. RFP § 1.2 *Background*.

On April 19, 2016, the Division's Proposal Review Unit opened the proposals received by the submission deadline of 2:00 p.m. After conducting review of the proposals submitted, the Proposal Review Unit found that Marriott Teaneck's proposal failed to include a *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 May 23, 2016, Marriott Teaneck faxed a completed *Disclosure of Investment Activities in Iran* Form and subsequently sent a May 26, 2016 email protesting the rejection of its proposal. The Division issued a FAD on August 17, 2016, upholding the rejection of Marriott Teaneck's proposal for failing to submit the form. On that same day Marriott Teaneck emailed the Division's Hearing Unit regarding its ability to be approved for consideration of a contract award. In that email Marriott Teaneck's sales manager states: "I sent in the appropriate documents on 5/26 via fax. I followed up and was unable to reach anyone. Please provide information on how I can be approved at this point or send contact information on who to contact." I treat this email as a request for reconsideration of the rejection of Marriott Teaneck's proposal and a request on how Marriott Teaneck can be considered for contract award.

The requirement to certify that a bidder is not engaged in certain prohibited activities in Iran is set forth in N.J.S.A. 52:32-58. The New Jersey Legislature, in implementing N.J.S.A. 52:32-58, mandated requirements that a bidder must comply with in order to enter into a contract with the State. N.J.S.A. 52:32-58 states:

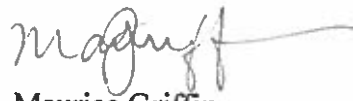
A State agency shall require a person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract to certify, **at the time the bid is submitted** or contract is renewed, that the person or entity is not identified on a list created pursuant to subsection b. of section 3 of the act as a person or entity engaging in investment activities in Iran described in subsection f. of section 2 of this act.  
[(Emphasis added.)]

In reviewing proposals submitted in response to an RFP, the Division does not have the power to waive this legislative requirement as only the New Jersey Legislature can change a requirement it has mandated. In order to make this process of certifying easier, the Division provides to the bidding community a *Disclosure of Investment Activities in Iran* Form to be completed in order for bidders to comply with the statutory requirement of N.J.S.A. 52:32-58. Here, because Marriott Teaneck uploaded its proposal without the completed *Disclosure of Investment Activities in Iran* Form or other form of certification, it was not in compliance with the Legislative requirement that mandates that a bidder certify at the time of proposal submission that it is not engaged in investment activities in Iran.

Were the Division to allow Marriott Teaneck to submit a completed and signed *Disclosure of Investment Activities in Iran* Form after the proposal submission deadline, it would be in violation of the Legislative requirement outlined in N.J.S.A. 52:32-58. Permitting Marriott Teaneck the ability to submit the form beyond the time frame allowed would unlevel the bidders' playing field, as the State received responsive proposals in which all necessary information and documents were provided as required. While I regret the outcome of this unfortunate situation, in light of the findings set forth above, Marriott Teaneck is not eligible to participate in the competition for this subject contract. This is my final agency decision related to Marriott Teaneck's request for reconsideration and information.

Thank you for your company's continuing interest in doing business with the State of New Jersey. I encourage you to take this opportunity to register your business with *NJ START* at [www.njstart.gov](http://www.njstart.gov), the State of New Jersey's new eProcurement system, which went live on June 20, 2016.

Sincerely,



Maurice Griffin  
Chief Hearing Officer

c: G. Olivera  
K. Woolford  
V. Taylor  
A. Nelson