



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR
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June 2, 2017

Via Electronic Mail [joe@myprincetonchevrolet.com] and USPS Regular Mail

Joe Zamorski, Parts Director
Princeton Chevrolet
200 Renaissance Blvd.
Lawrenceville, NJ 08648

Re: Protest of Notice of Proposal Rejection
Solicitation #17DPP00114: T2760 OEM Automotive Parts and Accessories for Light Duty Vehicles Class 4 or Lower

Dear Mr. Zamorski:

This letter is in response to your email of May 22, 2017, on behalf of Princeton Chevrolet which was received by the Hearing Unit of the Division of Purchase and Property (hereinafter "Division"). In that letter Princeton Chevrolet protests the Notice of Proposal Rejection issued by the Division's Proposal Review Unit for Solicitation #17DPP00114: T2760 OEM Automotive Parts and Accessories for Light Duty Vehicles Class 4 or Lower.¹ The record of this procurement reveals that Princeton Chevrolet's Quote {Proposal} (hereinafter "Proposal") was rejected because Princeton Chevrolet submitted a blank *Disclosure of Investment Activities in Iran Form*.

In consideration of Princeton Chevrolet's protest, I have reviewed the record of this procurement, including the Bid Solicitation {Request for Proposal} (hereinafter "RFP"), Princeton Chevrolet's Proposal, the relevant statutes, regulations, and case law. This review of the record has provided me with the information necessary to determine the facts of this matter and to render an informed Final Agency Decision on the merits of the protest. I set forth herein the Division's Final Agency Decision.

By way of background, on March 16, 2017, the Division's Procurement Bureau (hereinafter "Bureau") issued the above referenced RFP on behalf of Department of the Treasury, Bureau of Transportation Services, to solicit Proposals for OEM Automotive Parts and Accessories for Light Duty Vehicles. RFP § 1.1 *Purpose and Intent*. The intent of the RFP is to award up to four (4) Master Blanket Purchase Orders (Blanket P.O.s) {Contracts} (hereinafter "Contract") per region, for each brand, for each price line item, to those responsive Vendors {Bidders} (hereinafter "Bidder") whose proposals are most

¹ On May 23, 2017 Princeton Chevrolet wrote to the Procurement Bureau seeking to the protest the Notice of Proposal Rejection. That correspondence was forwarded to the Hearing Unit for consideration in connection with protest.

advantageous to the State, price, and other factors considered. RFP § 7.2 *Final Blanket P.O. {Contract} Award.*

On April 27, 2017, the Proposal Review Unit opened the Proposals received by the submission deadline of 2:00 p.m. After conducting an initial review of the Proposals submitted, the Proposal Review Unit found that Princeton Chevrolet's Proposal included a blank *Disclosure of Investment Activities in Iran Form*. Accordingly, the Proposal Review Unit issued a Notice of Proposal Rejection.

On May 22, 2015, Princeton Chevrolet wrote to the Division stating in part:

I am writing in regards to the rejection of this bid due to a form not being signed, Disclosure of Investment Activities in Iran. This form was downloaded and signed and dated on 4 - 15 - 2017. It was then uploaded to the NJ Start website with the proper signature and date.

If you look at the file properties for the Iran File (attached to email) it will show that it was created and saved on 4 - 15 - 17.

When I received the rejection notice I went on the website and the form was there all signed and dated. However; when I checked again when calling the Proposal Review Unit, the signed form was not there - and the unsigned one was. This (sic) I do not understand as to why it changed. Does the fact that I marked the file as confidential matter?

On 4 - 20 - 2017 the bid had an amendment to the pricing page which was to be addressed.

On 4 - 20 - 17 I made the adjustments and submitted the new adjusted bid (00000830) and cancelling our bid (00000710) from 4-15-17.

All the attachments from bid (00000710) and (00000830) were the same files except for the pricing file in the amendment. All signed and dated including the Disclosure of Investment Activities in Iran.

I ask that you re-considered (sic) our bid due to a possible data malfunction. I attest to the fact that the file was submitted properly with a signature and date.

With the protest Princeton Chevrolet submitted a copy of the completed and signed *Disclosure of Investment Activities in Iran Form*.

The New Jersey Legislature, in implementing N.J.S.A. 52:32-58, mandated that a Bidder certify, at the time of proposal opening, that it is not engaged in certain prohibited activities in Iran, to be eligible to enter into a contract with the State. N.J.S.A. 52:32-58 states in part:

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.*]

Further, the Division's governing regulations state that 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." N.J.A.C. 17: 12-2.2. As set forth in RFP § 4.4.1.2.2, the submission of a completed and signed *Disclosure of Investment Activities in Iran Form* with the bidder's proposal was required.

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 P.O. {Contract} to said Vendor {Bidder}.**

[*Emphasis added.*]

In order to make this process of certifying easier, the Division provides to the bidding community with the *Disclosure of Investment Activities in Iran* form to be completed, signed and submitted with the proposal.

In reviewing the record of this procurement, the Hearing Unit found that Princeton Chevrolet created two (2) Proposals in response to the RFP. The first Proposal was uploaded to the Division's *NJSTART* website on or about April 15, 2017 (Quote# 00000710). With that Proposal (Quote# 00000710), and as shown in the screenshot below, Princeton Chevrolet did attach a completed and signed *Disclosure of Investment Activities in Iran Form* as required.²

² A copy of this form was submitted to the Division by Princeton Chevrolet with the protest.

STATE OF NEW JERSEY - DIVISION OF PURCHASE AND PROPERTY
 DISCLOSURE OF INVESTMENT ACTIVITIES IN BRAN

Quote Number: 17DPP0114 Bidder/Bidder's: PRINCETON CHEVROLET

PART 1: CERTIFICATION
BIDDERS MUST COMPLETE PART 1 BY CHECKING EITHER BOX.
FAILURE TO CHECK ONE OF THE BOXES WILL RENDER THE PROPOSAL NON-RESPONSIVE.

Pursuant to Public Law 2012, c. 28, any person or entity that submits a bid or proposal in electronic response to enter into or renew a contract shall complete the certification below to attest, under penalty of perjury, that neither the person or entity, nor one of its parents, subsidiaries, or affiliates is identified on the Department of Treasury's Chapter 25 list as a person or entity engaging in investment activities in Iran. The Chapter 25 list is found on the Director's website at <http://www.treasury.state.nj.gov/Chapter25List.htm>. Bidders must review the list prior to completing the online certification. Failure to complete the certification will cause a bidder's proposal non-responsive. If the Director finds a person or entity to be in violation of the RFP and the person or entity is not on the list, the person or entity may be subject to civil or criminal penalties, including but not limited to, imposing sanctions, seeking civil penalties, recovering damages, declaring the party in default and seeking enforcement or suspension of the party.

PLEASE CHECK THE APPROPRIATE BOX:

I certify, pursuant to Public Law 2012, c. 28, that neither the bidder listed above nor any of the bidder's parents, subsidiaries, or affiliates is listed on the N.J. Department of the Treasury's list of entities disallowed to be engaged in prohibited activities as set forth in P.L. 2012, c. 28 (Chapter 25 list). I further certify that I am the person listed above, or I am an officer or representative of the entity listed above and am authorized to make this certification on its behalf. I will only Part 1 and sign and complete the Certification below.

OR
 I am unable to certify, as shown hereabove, that neither the bidder nor one or more of its parents, subsidiaries, or affiliates is listed on the Department's Chapter 25 list. I will provide a detailed, accurate and precise description of the activities of the bidder in Part 2 below and sign and complete the Certification below. Failure to complete the Certification below, however, does not constitute an admission of any violation of the law and appropriate penalties, fines or other sanctions will be determined as provided by law.

PART 2: PLEASE PROVIDE FURTHER INFORMATION RELATED TO INVESTMENT ACTIVITIES IN BRAN
 You must provide a detailed, accurate and precise description of the activities of the bidding opportunity or one of its parents, subsidiaries or affiliates, depending on the investment activities in Iran outlined above in completing the above boxes.

EACH BOX WILL PROMPT YOU TO PROVIDE INFORMATION RELATIVE TO THE ABOVE QUESTIONS. PLEASE PROVIDE THOROUGH ANSWERS TO EACH QUESTION. IF YOU NEED TO MAKE ADDITIONAL ENTRIES, CLICK THE "ADD AN ADDITIONAL ACTIVITIES ENTRY" BUTTON.

Name: _____ Relationship to Bidder/Quote:
 Description of Activity: _____
 Duration of Engagement: _____ Anticipated Completion Date: _____
 Bidder/Quote Contact Name: _____ Contact Phone Number: _____

Signature: _____ Title: _____ Date: _____

On April 18, 2017 the Bureau posted an amendment to the RFP which included a revised price sheet. Because of this amendment, it appears that Princeton Chevrolet choose to withdraw its initial Proposal and submit a new Proposal. RFP § 1.4.7.1 *Quote {Proposal} Withdrawal Prior to Quote {Proposal} Opening*, permits a Bidder, at its discretion, to withdraw a Proposal prior to the Proposal opening date. Specifically, the RFP states:

1.4.7.1 QUOTE {PROPOSAL} WITHDRAWAL PRIOR TO QUOTE {PROPOSAL} OPENING

NJSTART: A Vendor {Bidder} may withdraw its Quote {Proposal} submission in **NJSTART** prior to the Quote {Proposal} opening; however, Vendors {Bidders} should note that while withdrawn **NJSTART** Quotes {Proposals} remain viewable by the Vendor {Bidder} on its Vendor Profile Homepage, they are removed from the Division's view and cannot be considered for Blanket P.O. {Contract} award. The Vendor {Bidder} may submit a revised Quote {Proposal} as long as the Quote {Proposal} is received prior to the announced date and time for Quote {Proposal} submission. Vendors {Bidders} may refer to the QRG "Submit a Quote" for additional instruction. QRGs are located on the **NJSTART Vendor Support Page**.

[Emphasis added.]

Accordingly, as permitted by the RFP, and as indicated in the screenshot below, Princeton Chevrolet withdrew its Proposal (Quote# 00000710).

Quote 00000710 - PRINCETON CHEVROLET										
General	Items	Questions	Subcontractors	Terms & Conditions	Attachments	Evaluations	Performance	Revisions	Approved	Back to Bid
Header Information										
Quote #:	00000710	Bid #:	17DPP00114	Status:		Withdrawn				
Organization:	Division of Purchase and Property	Delivery Days:	1	Disclosure:		17D				
Description:	17760 OEM Automotive Parts and Accessories for Light Duty - various Class 4 or Lower	Alternate Bid:	No	Shipping Terms:	F O B Destination					
Bid Flag:	Yes	Ship Via Terms:		Payment Term:	Net 60					
Freight Terms:		Info Contact:	Princeton Chevrolet Joe Camarota joe@pryncr.com 732-910-8100 CELL 609-219-1992	Quote Total:	31.25					
Promised Date:		User last Updated:	JOE CAMAROTA	User Created:	JOE CAMAROTA					
Comment:										
Date Last Updated:	04/25/2017 03:18:51 PM									
Print format:	Quote									

Therefore, nothing contained within that withdrawn Proposal (Quote# 00000710) can be considered. RFP § 1.4.7.1 *Quote {Proposal} Withdrawal Prior to Quote {Proposal} Opening.*

On or about April 20, 2017, Princeton Chevrolet uploaded a new Proposal to the Division's **NJSTART** website (Quote# 00000830). Unfortunately, while Princeton Chevrolet did attach a copy of the *Disclosure of Investment Activities in Iran Form* to its submitted Proposal (Quote# 00000830), the form, as indicated by the screenshot below, was neither completed nor signed.

STATE OF NEW JERSEY - DIVISION OF PURCHASE AND PROPERTY DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN											
Quote Number:	17DPP00114										
Bidder/Offeror:	PRINCETON CHEVROLET										
PART 1: CERTIFICATION BIDDERS MUST COMPLETE PART 1 BY CHECKING EITHER BOX. FAILURE TO CHECK ONE OF THE BOXES WILL RENDER THE PROPOSAL NON-RESPONSIVE.											
Pursuant to Public Law 2012, c. 25, any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract must complete the certification below to attest, under penalty of perjury, that neither the person or entity, nor any of its parents, subsidiaries, or affiliates, is identified on the Department of Treasury's Chapter 25 list as a person or entity engaging in investment activities in Iran. The Chapter 25 list is found on the Division's website at http://www.state.nj.us/treasury/procurement/Chapter25List.pdf . Bidders must review this list prior to completing the below certification. Failure to complete the certification will render a bidder's proposal non-responsive. If the Director finds a person or entity to be in violation of law, s/he shall take action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking abatement or suspension of the party.											
PLEASE CHECK THE APPROPRIATE BOX:											
<input checked="" type="checkbox"/>	I certify, pursuant to Public Law 2012, c. 25, that neither the bidder listed above nor any of the bidder's parents, subsidiaries, or affiliates is listed on the N.J. Department of the Treasury's list of entities determined to be engaged in prohibited activities in Iran pursuant to P.L. 2012, c. 25 ("Chapter 25 List"). I further certify that I am the person listed above, or I am an officer or representative of the entity listed above and am authorized to make this certification on its behalf. I will sign Part 2 and sign and complete the Certification below.										
<input type="checkbox"/>	I am unable to certify as above because the bidder (and/or one or more of its parents, subsidiaries, or affiliates) is listed on the Department's Chapter 25 list. I will provide a detailed, accurate and precise description of the activities in Part 2 below and sign and complete the Certification below. FAILURE TO SIGNIFY SUCH WILL RESULT IN THE BIDDING BEING RENDERED AS NON-RESPONSIVE and appropriate penalties, fines and/or sanctions will be assessed as provided by law.										
PART 2: PLEASE PROVIDE FURTHER INFORMATION RELATED TO INVESTMENT ACTIVITIES IN IRAN You must provide a detailed, accurate and precise description of the activities of the bidding person/entity, or one of its parents, subsidiaries or affiliates, engaging in the investment activities in Iran outlined above by completing the boxes below.											
EACH BOX WILL PROMPT YOU TO PROVIDE INFORMATION RELATIVE TO THE ABOVE QUESTIONS. PLEASE PROVIDE THOROUGH ANSWERS TO EACH QUESTION. IF YOU NEED TO MAKE ADDITIONAL ENTRIES, CLICK THE "ADD AN ADDITIONAL ACTIVITIES ENTRY" BUTTON.											
<table border="1" style="width: 100%;"> <tr> <td>Name</td> <td>Relationship to Bidder/Offeror</td> </tr> <tr> <td>Description of Activities</td> <td></td> </tr> <tr> <td>Duration of Engagement</td> <td>Anticipated Cessation Date</td> </tr> <tr> <td>Bidder/Offeror Contact Name</td> <td>Contact Phone Number</td> </tr> <tr> <td colspan="2" style="text-align: center;">ADD AN ADDITIONAL ACTIVITIES ENTRY</td> </tr> </table>		Name	Relationship to Bidder/Offeror	Description of Activities		Duration of Engagement	Anticipated Cessation Date	Bidder/Offeror Contact Name	Contact Phone Number	ADD AN ADDITIONAL ACTIVITIES ENTRY	
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Bidder/Offeror Contact Name	Contact Phone Number										
ADD AN ADDITIONAL ACTIVITIES ENTRY											
<p><small>Certification: I, being duly sworn upon my oath, hereby represent that the foregoing information and any statements therein to the best of my knowledge are true and complete and that I am authorized to execute this certification on behalf of the bidder. That the State of New Jersey is relying on the information contained herein and that I am under a continuing obligation from the date of the certification through the completion of any contracts with the State to notify the State in writing of any changes to the information contained herein. That I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if so, I am subject to arrest/prosecution under the law and that it will constitute a material breach of my agreement(s) with the State, permitting the State to declare my contract(s) null and void and unenforceable.</small></p>											
Full Name (Print)	Signature										
Title	Date										
	Do Not Enter PIN as a Signature										

In reviewing the proposals submitted in response to an RFP, the Division does not have the power to waive the legislative requirement that a bidder certify, at the time of bid submission, that it is not engaged in investment activities in Iran. Only the New Jersey Legislature can change a requirement it has mandated.

Unfortunately, Princeton Chevrolet did not submit a completed and signed form with its submitted Proposal (Quote# 00000830) as evidenced by a review of the documents submitted by Princeton Chevrolet through the Division's **NJSTART** website, nor was the form contained within Princeton Chevrolet's **NJSTART** Vendor Profile. Therefore, Princeton Chevrolet was not in compliance with the Legislative requirement.

The **NJSTART** system does not prevent a Bidder from submitting a Proposal without all required forms and documentation attached or without the documents being fully completed as mandated by the specifications. The responsibility for the contents of the Proposal, forms, or submittals necessarily and appropriately rests solely with the Bidder. RFP § 1.4.2 *Vendor {Bidder} Responsibility*. Here, unfortunately, Princeton Chevrolet submitted its amended Proposal without the *Disclosure of Investment Activities in Iran Form* being completed and signed as required.

Notwithstanding Princeton Chevrolet's interest in competing for this procurement, to allow a Bidder who did not appropriately complete, sign and submit all of the required forms with its Proposal, as required by the RFP, to be eligible to participate in the procurement process would un-level the Bidders' playing field. The deficiency at issue cannot be remedied after the Proposal submission deadline as acceptance of Princeton Chevrolet's Proposal under these circumstances would be contrary to the provisions of the governing statute and provide Princeton Chevrolet with disclamation options not available to other Bidders. In light of the findings set forth above, I have no choice but to 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 the Proposal.

Thank you for your interest in doing business with the State of New Jersey and for registering your company with **NJSTART** at www.njstart.gov, the State of New Jersey's new eProcurement system.

Sincerely,



Maurice A. Griffin
Acting Director

MAG: RUD

c: J. Kerchner
K. Thomas
A. Nelson
D. Rodriguez