



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 [kmalzahn@Argus-Hazco.com] and USPS Regular Mail

Karyn Malzahn, Customer Service Representative
Argus Group Holding d/b/a Argus - Hazco
46400 Continental Drive
Chesterfield, MI 48047

Re: Protest of Notice of Proposal Rejection
Solicitation #17DPP00046: Law Enforcement Firearms, Equipment and Supplies

Dear Ms. Malzahn:

This letter is in response to your email of May 30, 2017, on behalf of Argus Group Holding d/b/a Argus - Hazco (hereinafter "Argus") which was received by the Hearing Unit of the Division of Purchase and Property (hereinafter "Division"). In that correspondence, Argus protests the Notice of Proposal Rejection issued by the Division's Proposal Review Unit for Solicitation #17DPP00046: Law Enforcement Firearms, Equipment and Supplies. The record of this procurement reveals that Argus' Quote {Proposal} (hereinafter "Proposal") was rejected because Argus did not submit the *Ownership Disclosure Form* or the *Offer and Acceptance {Signatory} Page* with its proposal submission.

In consideration of Argus' protest, I have reviewed the record of this procurement, including the Bid Solicitation {Request for Proposal} (hereinafter "RFP"), Argus' 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 February 7, 2107, the Division's Procurement Bureau (hereinafter "Bureau") issued the above referenced RFP on behalf of State Using Agencies and Cooperative Purchasing Partners, to solicit Proposals for law enforcement equipment and supplies. RFP § 1.1 *Purpose and Intent*. RFP § 3.1 *Law Enforcement Equipment and Supplies Categories* identified the following sixteen categories of items sought by the RFP:

- Category 1 – Ammunition;
- Category 2 - Firearms & Firearm Repair Parts;
- Category 3 – Firearm Accessories;
- Category 4 – Non-Lethal Weapons/Riot Control Equipment, Parts & Accessories;
- Category 5 – Laser/Radar Guns;
- Category 6 – Leather/Nylon Goods & Tactical Gear;

- Category 7 – Body Armor, Bomb Suits & Accessories;
- Category 8 – Chemical, Biological, Radiological, Nuclear and Explosives (CBRNE) Detection, Mitigation & Personal Protective Equipment, Parts & Accessories;
- Category 9 – Search & Rescue Equipment;
- Category 10 – Marine and Scuba Equipment, Supplies, Parts & Accessories;
- Category 11 – Area Security Equipment;
- Category 12 – Vehicle Siren Systems & Vehicle Light Systems and Associated Accessories;
Category 12A - Vehicle Siren Systems & Vehicle Light Systems Installation and Repair Rate;
- Category 13 – Police In-Car Video Solution;
Category 13A - Installation, Consulting Services, Hardware /Software Configuration, Training and Repair Services – Police In-Car Video Solution;
- Category 14 – Police Body Camera Solution;
Category 14A - Installation, Consulting Services, Hardware/Software Configuration, Training and Repair Services – Police Body Camera Solution;
- Category 15 - Interview Room Camera Solution;
Category 15A - Installation, Consulting Services, Hardware/Software Configuration, Training and Repair Services – Interview Room Camera Solution;
- Category 16 - Automatic License Plate Recognition Surveillance Solution;
Category 16A - Installation, Consulting Services, Hardware/Software Configuration, Training and Repair Services - Automatic License Plate Recognition Surveillance Solution.

The State intends to make two (2) Statewide awards, one primary and one secondary, for each price line listed in Categories 1 through 11 and up to five (5) Statewide awards for each price line listed in Categories 12 through 16. RFP § 1.1 *Purpose and Intent*.

On April 20, 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 Argus' Proposal did not include the *Ownership Disclosure Form* or the *Offer and Acceptance {Signatory} Page*. Accordingly, the Proposal Review Unit issued a Notice of Proposal Rejection. On May 30, 2017, Argus wrote to the Division stating “[p]lease accept the following 2 forms with signature that were missed from the original quote submission. Please let me know if this is acceptable, or if I need to do anything additional to be considered for the bid.” With the protest, Argus submitted the completed and signed *Ownership Disclosure Form* and the *Offer and Acceptance {Signatory} Page*.

Pursuant to the Division’s governing regulations, a 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*. To assist Bidders in preparing and submitting a Proposal, the RFP advises Bidders to visit the *NJSTART* Vendor Support Page and to utilize the available Quick Reference Guides. Specifically, RFP § 1.33 *NJSTART* states in pertinent part:

Vendors {Bidders} are strongly encouraged to visit the [NJSTART Vendor Support Page](#), which contains Quick Reference Guides (QRGs), supporting videos, a glossary of *NJSTART* terms, and helpdesk contact information.

The Vendor {Bidder} should utilize the QRGs before attempting to submit its Quote {Proposal} using the *NJSTART* process. It is the Vendor’s {Bidder’s} responsibility to ensure that the *NJSTART* Quote {Proposal} and attachments have been properly submitted.

The **NJSTART** system does not prevent a Bidder from submitting a Proposal without all of the required forms and documents attached as mandated by the specifications. The responsibility for the contents of the Proposal, forms, or other submittals necessarily and appropriately rests solely with the Bidder. RFP § 1.4.2 *Vendor {Bidder} Responsibility*. Here, unfortunately, Argus submitted a Proposal without all of the required forms or documents being attached.

While the Division could permit Argus to cure the deficiency created by Argus' failure to attach the *Offer and Acceptance {Signatory} Page*, the *Ownership Disclosure Form* is a statutorily required document that must be submitted with the Bidder's Proposal. The New Jersey Legislature, in implementing N.J.S.A. 52:25-24.2, mandated the requirements that a bidder must comply with in order to enter into a contract with the State. N.J.S.A. 52:25-24.2 states in pertinent part:

No corporation, partnership, or limited liability company shall be awarded any contract nor shall any agreement be entered into for the performance of any work or the furnishing of any materials or supplies, the cost of which is to be paid with or out of any public funds, by the State, or any county, municipality or school district, or any subsidiary or agency of the State, or of any county, municipality or school district, or by any authority, board, or commission which exercises governmental functions, **unless prior to the receipt of the bid or accompanying the bid**, of said corporation, said partnership, or said limited liability company there is submitted a statement setting forth the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. If one or more such stockholder or partner or member is itself a corporation or partnership or limited liability company, the stockholders holding 10 percent or more of that corporation's stock, or the individual partners owning 10 percent or greater interest in that partnership, or the members owning 10 percent or greater interest in that limited liability company, as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member, exceeding the 10 percent ownership criteria established in this act, has been listed.

[*Emphasis added.*]

The *Ownership Disclosure Form* is specifically addressed in RFP Section 4.4.1.2.1 *Ownership Disclosure Form* which states:

Pursuant to N.J.S.A. 52:25-24.2, in the event the Vendor {Bidder} is a corporation, limited liability company, or partnership, the Vendor {Bidder} must complete an Ownership Disclosure Form.

A current completed Ownership Disclosure Form must be received prior to or accompany the submitted Quote {Proposal}. 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} unless the Division has on file a signed and accurate Ownership Disclosure

Form dated and received no more than six (6) months prior to the Quote {Proposal} submission deadline for this procurement. If any ownership change has occurred within the last six (6) months, a new Ownership Disclosure Form must be completed, signed and submitted with the Quote {Proposal}.

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 applicable box and, if required, completing and attaching the shortened Ownership Disclosure Form. Vendors {Bidders} not using **NJSTART** to submit a Quote {Proposal} must complete the full Ownership Disclosure Form located on the [Division’s website](#). This form is also available in [NJSTART \(www.njstart.gov\)](#).

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](#).

Vendors {Bidders} utilizing **NJSTART** should designate one (1) version of the Ownership Disclosure Form as the Primary Form. In the event that a Vendor {Bidder} fails to attach an Ownership Disclosure Form, or the attached Ownership Disclosure Form is deemed deficient, the Division may access the Primary Form and consider it as part of the Quote {Proposal}. Note: The Primary Form must have a Date Created within six (6) months of the Quote {Proposal} submission deadline to be considered valid.

In reviewing proposals submitted in response to an RFP, the Division does not have the power to waive the legislative requirement that a Bidder provide its ownership information prior to or accompanying the Proposal submission. [N.J.S.A. 52:25-24.2](#). Only the New Jersey Legislature can change a requirement it has mandated. Accordingly, in order to make this process of complying with the legislative requirement easier, the Division provides to the bidding community an *Ownership Disclosure Form* to be completed and submitted with the proposal.

In this case, the record indicates that Argus did not submit the *Ownership Disclosure Form* with the proposal, nor was a signed form contained within Argus’ **NJSTART** Vendor Profile, or previously submitted within six (6) months prior to the Proposal opening deadline. As noted above, 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 applicable box. The available selections are:

- The bidder is a non-profit entity and is exempt from the ownership disclosure requirement. See Disclosure of Non-Profit Officer and Directors below.
- There are no individuals, partnerships or corporations with a 0% or greater interest in the bidding entity, therefore the bidder is exempt from the ownership disclosure requirement.

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,

A handwritten signature in blue ink that reads "maguff". The signature is stylized and appears to be a first name followed by a last name.

Maurice A. Griffin
Acting Director

MAG: RUD

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