



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

CHRIS CHRISTIE
Governor

FORD M. SCUDDER
State Treasurer

KIM GUADAGNO
Lt. Governor

MAURICE A. GRIFFIN
Acting Director

July 7, 2017

Via Electronic Mail [jason.laquatra@elsag.com] and USPS Regular Mail

Jason Laquatra, Senior Vice President - Operations
Selex ES, Inc. d/b/a ELSAG
A Leonardo Company
4221 Tudor Lane
Greensboro, NC 27410

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

Dear Mr. Laquatra:

This letter is in response to your email of June 22, 2017, on behalf of Selex ES, Inc. d/b/a ELSAG (hereinafter "Selex") which was received by the Hearing Unit of the Division of Purchase and Property (hereinafter "Division"). In that correspondence Selex protests its inability to submit a proposal for Solicitation #17DPP00046: Law Enforcement Firearms, Equipment and Supplies alleging that it did not receive notice that the solicitation was open for the submission of proposals until after the proposal opening date had passed.

In consideration of Selex's protest, I have reviewed the record of this procurement, including the Bid Solicitation {Request for Proposal} (hereinafter "RFP"), 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, 2017, 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*. On April 20, 2017, the Proposal Review Unit opened the Proposals received by the submission deadline of 2:00 p.m. On June 22, 2017, Selex wrote to the Division stating in part:

Selex ES Inc. was made aware that the New Jersey term contract, T0106 "Police and Homeland Security Equipment and Supplies," had re-opened for vendor proposals, but that we had missed the deadline for submitting our bid. Unfortunately, Selex was not notified of this opportunity, and has been closed out of the bidding. As a supplier on this contract since 2012, we are requesting a review of the process leading up to our disqualification, which we feel was unjustified in light of the points

highlighted below. Based on these points, we are respectfully requesting an exception be made to allow us to continue to participate on this contract.

...

In the past, our regional NJ salesperson, Stephanie Pluchino, has always been notified via direct email regarding opportunities to renew products and pricing. However, notifications for this specific solicitation were sent to vendors according to NIGP codes established via NJ Start (sic) registrations. Selex has registered as a vendor with NJ Start (sic), but registration was not active until well after the T0106 was executed. Our codes were, unfortunately, not included in the batch notifications for the T0106 solicitation...

First, Selex indicates that it did not received notification of the RFP until after the submission deadline had passed. The Division's regulations set forth procurement notification requirements at N.J.A.C. 17:12-2.1 Advertising as follows:

- (a) Advertising is required when the contract amount is expected to exceed the public bidding threshold or is not subject to the relevant exceptions of N.J.S.A. 52:34-6, 9, or 10. Public notice of the bidding opportunity shall be placed on the Division's website and with other media, including newspapers, as required by law at N.J.S.A. 52:34-12 and determined by the State Treasurer to provide best notice thereof to bidders. Advertisements shall be made a minimum of seven business days in advance of the announced deadline for receipt of proposals to encourage free and open competition.
- (b) If, during the course of an advertised procurement pursuant to (a) above, it becomes necessary to alter any of the terms, conditions, or requirements of the request for proposal, such alterations shall be set forth in addenda to the RFP and shall be advertised a minimum of seven business days in advance of the announced deadline for receipt of proposals.
- (c) In addition to statutorily mandated public advertising, the Division shall also publish notices of bidding opportunities on the Division's website.
- (d) As a service to vendors interested in competing for State contracts to be awarded by the Division and to any other parties seeking information about bidding opportunities available via the Division's competitive contract procurement program, the Division provides an on-line self-registration service known as the e-RFP Notification Service. Vendors and other interested parties can register to receive direct e-mail notices pertaining to the Division's procurements for goods or services based upon specific commodity classes or codes. As this is a self-registration process, it does not create an entitlement for any party to receive notice of any particular solicitation of proposals, and the Division and the State shall not be liable for any losses, claims, or damages of any kind if a vendor or other party, for any reason, is

not registered or does not receive an e-mail notice. It is the responsibility at all times for e-RFP Notification Service registrants to exercise due diligence in reviewing the notices on the Division's website to assure their awareness of State bidding opportunities announced by the Division

There is no statutory or regulatory requirement for email or other direct notice to potential bidders. Rather, the Division's regulations permit vendors to self-register to receive email notifications regarding the Division's procurements based upon the specific commodity codes selected by a vendor. N.J.A.C. 17:12-2.1(d). Here, in accordance with the Division's governing regulations, notice of the subject RFP was publicly advertised on the Division's **NJSTART** eProcurement site; and, as shown in the figure below, notice was also published in The Star-Ledger on February 8, 2017.

NOTICE OF NJSTART
BID SOLICITATION

NOTICE IS HEREBY GIVEN THAT
SEALED QUOTES (PROPOSALS) WILL
BE RECEIVED IN THE PROCUREMENT
BUREAU RECEPTION ROOM, 9TH
FLOOR, 33 WEST STATE STREET, P.O.
BOX 230, TRENTON, NJ, 08625-
0230, UNTIL 2:00 PM ON MARCH 9,
2017 AND WILL BE PUBLICLY
OPENED AND ANNOUNCED FOR
THE FOLLOWING NJSTART PRO-
CUREMENT PROGRAM SOLICITA-
TION:

17DPP00046 (7-0106) - Law Enforcement Firearms, Equipment and
Supplies

BIDDERS ARE REQUIRED TO COMPLY
WITH THE
TERMS AND CONDITIONS CON-
TAINED IN THE BID SOLICITATION.

INFORMATION ON THE NJSTART
PROCUREMENT PROGRAM AND BID
SOLICITATION DOCUMENTS ARE
AVAILABLE AT www.njstart.gov

AND ON THE DIVISION'S WEBSITE
AT
www.state.nj.us/treasury/purchase

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND
PROPERTY
2/8/2017 5:00:45

On March 2, 2017, Bid Amendment {Addendum} 1 (hereinafter "Bid Amendment"), extending the proposal submission deadline to April 6, 2017 was advertised in The Star-Ledger and posted to the Division's **NJSTART** eProcurement site.

NOTICE OF NJSTART
BID SOLICITATION

NOTICE IS HEREBY GIVEN THAT
SEALED QUOTES (PROPOSALS) WILL
BE RECEIVED IN THE PROCUREMENT
BUREAU RECEPTION ROOM, 9TH
FLOOR, 33 WEST STATE STREET, P.O.
BOX 230, TRENTON, NJ, 08625-
0230, UNTIL 2:00 PM ON APRIL 6,
2017 AND WILL BE PUBLICLY
OPENED AND ANNOUNCED FOR
THE FOLLOWING NJSTART PRO-
CUREMENT PROGRAM SOLICITA-
TION:

17DPP00046 (7-0106) - Law Enforcement
Firearms, Equipment and
Supplies

NOTE: Bid Amendment (Addendum)
1 to Modified Bid # 2281
Original Quote (Proposal)
Submission: March 9, 2017
Revised Quote (Proposal)
Submission: April 6, 2017

BIDDERS ARE REQUIRED TO COMPLY
WITH THE
TERMS AND CONDITIONS CON-
TAINED IN THE BID SOLICITATION.

INFORMATION ON THE NJSTART
PROCUREMENT PROGRAM AND BID
SOLICITATION DOCUMENTS ARE
AVAILABLE AT www.njstart.gov

AND ON THE DIVISION'S WEBSITE
AT
www.state.nj.us/treasury/purchase

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND
PROPERTY
3/14/2017 12:18:00

On March 30, 2017, Bid Amendment 2, extending the proposal submission deadline to April 13, 2017, was advertised in The Star-Ledger and posted to the Division's **NJSTART** eProcurement site.

NOTICE OF NJSTART
BID SOLICITATION

NOTICE IS HEREBY GIVEN THAT
SEALED QUOTES (PROPOSALS) WILL
BE RECEIVED IN THE PROCUREMENT
BUREAU RECEPTION ROOM, 9TH
FLOOR, 33 WEST STATE STREET, P.O.
BOX 230, TRENTON, N.J. 08625-
0230, UNTIL 2:00 PM ON APRIL 20,
2017 AND WILL BE PUBLICLY
OPENED AND ANNOUNCED FOR
THE FOLLOWING NJSTART PRO-
CUREMENT PROGRAM SOLICITA-
TION:

17DPP00046 (T-0106) - Law
Enforcement Firearms, Equipment
and Supplies

NOTE: Bid Amendment (Addendum)
3 e-Mailed April 5, 2017
Original Quote (Proposal)
Submission: April 13, 2017
REVISED Quote (Proposal)
Submission: April 20, 2017

BIDDERS ARE REQUIRED TO COMPLY
WITH THE
TERMS AND CONDITIONS CON-
TAINED IN THE BID SOLICITATION.

INFORMATION ON THE NJSTART
PROCUREMENT PROGRAM AND BID
SOLICITATION DOCUMENTS ARE
AVAILABLE AT www.njstart.gov

AND ON THE DIVISION'S WEBSITE
AT
www.state.nj.us/treasury/purchase

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND
PROPERTY
4/10/2017 571.30

On April 10, 2017, Bid Amendment 3, extending the proposal submission deadline to April 20, 2017, was advertised in The Star-Ledger and posted to the Division's **NJSTART** eProcurement site.

NOTICE OF NJSTART
BID SOLICITATION

NOTICE IS HEREBY GIVEN THAT
SEALED QUOTES (PROPOSALS) WILL
BE RECEIVED IN THE PROCUREMENT
BUREAU RECEPTION ROOM, 9TH
FLOOR, 33 WEST STATE STREET, P.O.
BOX 230, TRENTON, N.J. 08625-
0230, UNTIL 2:00 PM ON APRIL 20,
2017 AND WILL BE PUBLICLY
OPENED AND ANNOUNCED FOR
THE FOLLOWING NJSTART PRO-
CUREMENT PROGRAM SOLICITA-
TION:

17DPP00046 (T-0106) - Law Enforcement
Firearms, Equipment and
Supplies

NOTE: Bid Amendment (Addendum)
2 e-Mailed March 28, 2017
Original Quote (Proposal)
Submission: April 6, 2017
REVISED Quote (Proposal)
Submission: April 13, 2017

BIDDERS ARE REQUIRED TO COMPLY
WITH THE TERMS AND CONDITIONS
CONTAINED IN THE BID SOLICITA-
TION.

INFORMATION ON THE NJSTART
PROCUREMENT PROGRAM AND BID
SOLICITATION DOCUMENTS ARE
AVAILABLE AT www.njstart.gov

AND ON THE DIVISION'S WEBSITE
AT
www.state.nj.us/treasury/purchase

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND
PROPERTY
3/30/2017 571.30

The Division's public procurement program reflects the New Jersey statutory and regulatory requirements that have been affirmed by New Jersey courts. The record of this procurement reveals that

the solicitation was advertised in accordance with the Division's governing statutes and regulations, conforming to the Division's standard announcement procedures and practices.

Although Selex requests that it be permitted to participate in the procurement process, the administrative regulations that govern the Division's advertised procurement process establish certain requirements that must be met in order for a proposal to be accepted. A basic precept of the Division's governing statutes and regulations requires that sealed proposals be submitted by the deadline specified in the public advertisement and website notice. The Division's governing regulations provide in relevant part: "[i]n order to be eligible for consideration for award of contract, the bidder's proposal shall ... [b]e submitted on or before the due date and time and at the place specified in the RFP." N.J.A.C. 17:12-2.2(a). If the requirements of N.J.A.C. 17:12-2.2 are not met, a proposal must be rejected. These regulations are stringently enforced to maintain the equal footing of all bidders and to ensure the integrity of the State's bidding process.

Thus, the requirements for timely submission of a signed and sealed proposal, as mandated by the administrative rules that govern the Division's procurements, must be followed. Here, although a Notice of Intent to Award has not yet been issued, the proposal submission deadline was 2:00 p.m. on April 20, 2017. As a result, Selex's request to submit a proposal for the subject contract request must be denied. Notwithstanding Selex's interest in competing for this procurement, to allow Selex to submit a proposal, well after the proposal opening date would be contrary to the requirements of the RFP and would un-level the Bidder's playing field.

Second, Selex notes that while it is now registered with **NJSTART**, its registration was not active until after the solicitation period for T0106 had closed and that its selected codes were not included in the notification for this solicitation.¹ However, a review of the Division's **NJSTART** eProcurement system reveals that Selex was registered in **NJSTART** as of October 3, 2016, and that its listed contact is Stephanie Pluchino. While it is unclear whether Ms. Pluchino remains in Selex's employ; vendors are cautioned to keep their NJSTART contact information up to date to ensure that they received notification of bidding opportunities.

Vendor Profile - Selex ES, Inc.			
Organization Information			
Vendor ID:	V00015434	Alternate ID:	REVERSE: 00015434
Vendor Legal Name:	Selex ES, Inc.	Status:	Active
Tax ID Type:	011	Incorporation Details:	State: NJ
Tax ID#:	*****00	Business Description:	Security
Vendor Email:	stephane.pluchino@selex-es.us	Vendor Fax:	
Emergency Supplier:	es	1099 Vendor:	115
Emergency Phone:	8454201281		
Emergency Contact Name:	Stephanie Pluchino		
Emergency Email:	stephane.pluchino@selex-es.us		
Emergency Info Comment:			
Referenced Vendor:	No		
User Last Updated:	DCB/RHC SCCL/A	Date Last Updated:	10/03/2016 05:41:29 AM

¹ I note that Selex has a total of three **NJSTART** registrations as follows: (1) Selex ES, Inc. (Vendor Legal Name/Company Name - Vendor ID V00015434) last updated on October 3, 2016; (2) Selex ES (Vendor Legal Name/Company Name - Vendor ID V00025680) last updated on June 12, 2017; and (3) ELSAG North America, LLC/Selex ES (Vendor Legal Name/Company Name - Vendor ID V00000559) which was last updated on June 23, 2017.

In registering with **NJSTART** the Division’s Quick Reference Guide for Vendor Registration advises Bidders as follows:


5.5 Commodity/Service Codes Tab

When State procurement specialists are searching NJSTART for potential suppliers of goods and services they will filter their search results using the National Institute of Government Purchasing (NIGP) commodity code. Your company will only appear in the results of these searches if your NJSTART vendor profile lists the NIGP code for all of the goods and services being sought. It is in your best interest to ensure that each of the applicable NIGP codes are added to your profile using the instructions provided in this section.

To complete registration, you must select at least one code applicable to your organization.

If you are familiar with the NIGP code, you may use the drop-down links for the NIGP Class and NIGP Class Item to select the code(s). If you are not familiar with the NIGP code or cannot find the code(s) that apply to your organization via the drop-down, then you may use the keyword search to find the applicable code(s).

Complete your selections on the Commodity/Service Codes tab as shown below:



After each commodity code selection click **Save and Add More**. You are encouraged to add as many codes as you wish, according to the goods and services you provide. When you have completed adding all of your codes, click **Save and Continue Registration**.

In creating the subject RFP, 34 commodity codes were selected covering the sixteen categories of items sought by the RFP. In keeping with N.J.A.C. 17:12-2.1(d), notice of the subject procurement was emailed by the Division’s eProcurement system to those vendors who were registered with commodity codes associated with this procurement. A review of Selex’s profile reveals that Selex only has one commodity code listed in its profile.

Vendor Profile - Selex ES Inc.

Organization Information Users Address **Commodity Codes and Services** Regions Terms & Categories Attachments Vendor Performance

Commodity Codes and Services Information

Active	Code	Description	Date Added
<input checked="" type="checkbox"/>	990-67	Patrol Services	07/27/2016

Close Window

Copyright © 2017 Penscope Holdings, Inc. - All Rights Reserved

Unfortunately, Selex’s selected commodity code was not one associated with the subject procurement. However, the responsibility for registration and the selection of commodity codes necessarily rests solely with the potential Bidder who will only receive notifications of bidding opportunities for the commodity codes for which it has registered.

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.

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
J. Karamali