



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR

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June 24, 2025

Via Electronic Mail Only to danas@supervac.com

Dana Shaffer
Northeastern Regional Sales Manager
Super Vacuum Mfg. Co Inc.
3842 Redman Drive
Fort Collins, CO 80524

Re: I/M/O Bid Solicitation #25DPP01143 Super Vacuum Mfg. Co Inc.
Protest of Notice of Proposal Rejection
T0790 Firefighter Protective Gear, Equipment and Supplies - Statewide

Dear Mr. Shaffer:

This final agency decision is in response to the protest dated June 24, 2025 ("Letter"), submitted by Super Vacuum Mfg. Co Inc. ("Super Vacuum"). In that correspondence, Super Vacuum protests the Notice of Proposal Rejection issued on June 16, 2025, by the Division's Proposal Review Unit ("PRU") for Bid Solicitation #25DPP01143 – T0790 Firefighter Protective Gear, Equipment and Supplies – Statewide ("Bid Solicitation"). The record of this procurement reveals that the Quote submitted by Super Vacuum was deemed non-responsive on the grounds of "Missing required certification(s), form(s), or attachment(s)"; "Ownership Disclosure Form" In their letter, Super Vacuum stated in pertinent part that Super Vacuum "Missed attaching the Ownership Disclosure Form". Additionally, Super Vacuum attached a completed Ownership Disclosure Form to its protest.

By way of background, on April 23, 2025, the Division's Procurement Bureau ("Bureau") issued the Bid Solicitation on behalf of the Using Agencies. The purpose of the Bid Solicitation was to solicit "Quotes for various categories of firefighter protective gear, equipment and supplies, which are identified below." Bid Solicitation Sec. 1.1, *Purpose and Intent*. "It is the intent of the State to award a Contract to that responsible Bidder whose Quote, conforming to this Bid Solicitation is most advantageous to the State, price and other factors considered. The State may award any or all price lines." Id.

On June 13, 2025, the PRU opened thirty (30) Quotes which were received by the submission deadline of 2:00 pm eastern time. After conducting an initial review of the Quotes received for compliance with mandatory Quote submission requirements, it was determined that Super Vacuum's Quote was non-responsive for failing to submit an Ownership Disclosure Form, as required in Bid Solicitation Section 3.13.2.

In consideration of the Super Vacuum protest, I have reviewed the record of this procurement, including the Bid Solicitation, the Quotes received, 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.

The Division's administrative regulations that govern the advertised procurement process establish certain requirements that must be met in order for a Quote to be accepted. Those regulations provide in relevant part that:

(a) In order to be eligible for consideration for award of contract, the bidder's proposal **shall** conform to the following requirements or be subject to designation as a non-responsive proposal for non-compliance:

...

4. Contain **all** RFP-required certifications, forms, and attachments, completed and signed as required. An RFP may designate certain forms and/or certifications that need not be included in the bidder's proposal but that must be provided by a successful bidder upon request prior to an award of contract;

[N.J.A.C. 17:12-2.2(a) (emphasis added).]

If the requirements of N.J.A.C. 17:12-2.2 are not met, a Quote must be rejected. This regulation mandates stringent enforcement to maintain the equal footing of all Bidders and to ensure the integrity of the State's bidding process.

The subject procurement was comprised of the Bid Solicitation, other documents and mandatory forms which were specifically addressed in Bid Solicitation Section 3.0, *Quote Submission Requirements*, which states in pertinent part that:

Pursuant to N.J.S.A. 52:25-24.2, in the event the Bidder is a corporation, partnership or limited liability company, the Bidder **must** disclose all 10% or greater owners by (a) completing and submitting the Ownership Disclosure Form with the Quote; (b) if the Bidder has submitted a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the Quote submission deadline for this procurement, the Division may rely upon that form; however, if there has been a change in ownership within the last six (6) months, a new Ownership Disclosure Form must be completed, signed and submitted with the Quote; or, (c) a Bidder with any direct or indirect parent entity which is publicly traded may submit the name and address of each publicly traded entity and the name and address of each person that holds a 10 percent or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent, and, if there is any person that holds a 10 percent or greater beneficial interest, also shall submit links to the websites containing the last annual filings with the federal Securities and Exchange Commission or the foreign equivalent and the relevant page numbers of the filings that contain the information on each person that holds a 10 percent or greater beneficial interest. N.J.S.A. 52:25-24.2.

NOTE: In lieu of completing and submitting the paper-based form, the Bidder has the option to complete this form online in **NJSTART** on the “Terms and Categories” Tab.

A Bidder’s failure to submit the information required by N.J.S.A. 52:25-24.2 will result in the rejection of the Quote as non-responsive and preclude the award of a Contract to said Bidder.”

[Bid Solicitation Section 3.13.2, emphasis added.]

The term “must” denotes a mandatory requirement as further set forth in the Bid Solicitation’s glossary:

Must – Denotes that which is a mandatory requirement.

[Bid Solicitation Section 9, *GLOSSARY*]

The term “shall” also denotes that which is a mandatory requirement as further set forth in the Bid Solicitation’s glossary:

Shall – Denotes that which is a mandatory requirement.

[Bid Solicitation Section 9, *GLOSSARY*]

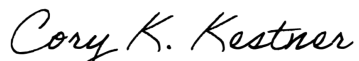
Included with their Letter, Super Vacuum provided an Ownership Disclosure Form. Super Vacuum was non-compliant with the terms in Bid Solicitation Section 3.13.2. As such, Super Vacuum’s Quote contained a non-waivable deviation rendering the Quote non-responsive. Twp. of River Vale v. Longo Constr. Co., 127 N.J. Super. 207, 222 (Law Div. 1974).

In light of the findings set forth above, I sustain the conclusions in the Bureau’s February 19, 2025 Proposal Rejection Letter, that Super Vacuum’s Quote was non-responsive for failing to provide an Ownership Disclosure Form as required by the Bid Solicitation and uphold the June 16, 2025, Notice of Proposal Rejection.

Thank you for your company’s continuing interest in doing business with the State of New Jersey, I encourage you to log into **NJSTART** to select any and all commodity codes for procurements you may be interested in submitting a Quote for so that you may receive notification of future bidding opportunities.

This is the Division’s final agency decision. Pursuant to N.J.A.C. 17:12-3.1, this determination is appealable to the Appellate Division of the Superior Court in accordance with the New Jersey Court Rules (R. 2:4-1) which provide a party 45 days to appeal this final agency decision.

Sincerely,



Cory K. Kestner, Esq.
Acting Chief Hearing Officer

CKK: NAA

c. K. Thomas
C. Murphy
J. Brown