



## 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

ELIZABETH MAHER MUOIO  
*State Treasurer*

MAURICE A. GRIFFIN  
*Acting Director*

PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

September 24, 2021

*Via Electronic Mail Only:* [greg@genelsafety.com](mailto:greg@genelsafety.com)

Gregory J. Krannich, President  
GEN-EL Safety & Industrial Products LLC.  
961 Route 10 East, Suite 2M  
Randolph, NJ 07869

Re: I/M/O Bid Solicitation #21DPP00589 GEN-EL Safety & Industrial Products LLC  
Protest of Notice of Intent to Award  
T0983 Environmental Testing Instruments, Equipment and Supplies for Air and Water Quality  
Testing and Monitoring

Dear Mr. Krannich:

This final agency decision is in response to your letter dated August 10, 2021, submitted on behalf of GEN-EL Safety & Industrial Products LLC. (GEN-EL). That letter was received by the Division of Purchase and Property's (Division) Hearing Unit on August 11, 2021. In that correspondence GEN-EL protests the Notice of Intent to Award (NOI) issued by the Division's Procurement Bureau (Bureau) for Bid Solicitation #20DPP00589 - T0983 Environmental Testing Instruments, Equipment and Supplies for Air and Water Quality Testing and Monitoring (Bid Solicitation). The record of this procurement reveals that the Quote submitted by GEN-EL, related to certain Honeywell Rae Systems, was deemed non-responsive for having submitted "a series or range of discounts" which was prohibited pursuant to Bid Solicitation Section 4.4.5.2. *State-Supplied Price Sheet Instructions*.

By way of background, on October 30, 2020, the Bureau issued the Bid Solicitation on behalf of State Using Agencies and Cooperative Purchasing Program participants. Bid Solicitation §1.1 *Purpose and Intent*. The purpose of the Bid Solicitation was to solicit Quotes for Environmental Testing Instruments, Equipment and Supplies for Air and Water Quality Testing and Monitoring. *Ibid*. It is the State's intent to award Master Blanket Purchase Orders (Blanket P.O.s) to those responsible Vendors {Bidders} whose Quotes, conforming to this Bid Solicitation are most advantageous to the State, price and other factors considered. *Ibid*.

On December 18, 2020, the Division's Proposal Review Unit opened fifteen (15) 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, the Division's Proposal Review Unit forwarded fifteen (15) Quotes to the Bureau for further review and evaluation consistent with the requirements of the Bid Solicitation Section 6.7 *Evaluation Criteria*.

After completing its review and evaluation on July 26, 2021, the Bureau prepared a Recommendation Report that recommended that Blanket P.O.s be awarded to eleven (11) responsive Vendors {Bidders}. With respect to the Quote submitted by GEN-EL, related to the Honeywell Rae Systems the Bureau determined that pursuant to Bid Solicitation Section 4.4.5.2 *State-Supplied Price Sheet Instructions*, the portion of GEN-EL's Quote for the Honeywell Rae Systems, violated the Bid Solicitation requirement that "A series or a range of discounts/markups or fixed prices (firm dollar amount) on the price line shall not be acceptable and shall result in rejection of the Quote for that price line only." Specifically, in the Recommendation Report, the Bureau determined that by offering a 5% discount for Honeywell Rae Systems Portable Monitors, a 1% discount on Honeywell Rea Systems Wireless Monitors and a 1% discount on Honeywell Rea Systems Fixed Meshgard Monitors, GEN-EL provided a range of discounts for the Honeywell Rea Systems."<sup>1</sup>

Accordingly, on July 28, 2021, the Bureau issued the NOI advising the Vendors {Bidders} that it was the State's intent to award Blanket P.O.s consistent with the July 26, 2021, Recommendation Report.

On August 11, 2021, GEN-EL wrote to the Division's Hearing Unit stating that it was protesting the Division's determination that its submissions for Honeywell Rea Systems was non-responsive. Specifically, GEN-EL states:

Gen-el is an authorized master distributor of Honeywell Rae Systems. In this capacity, Gen-el receives different levels of discounts from the brand manufacturer for the three (3) categories which it bid on... Accordingly, Gen-el respectfully request that its protest be granted and that it be awarded the contract as to the subject Honeywell Rae System products at issue which are of critical importance to agencies of the State."

In consideration of the GEN-EL's 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.

Pursuant to Bid Solicitation Section 4.4.5 *State-Supplied Price Sheet*, each "Vendor {Bidder} must submit its pricing using the State-Supplied Price Sheet accompanying this Bid Solicitation and located on the "Attachments Tab". Bid Solicitation Section 4.4.5.2 *State-Supplied Price Sheet Instructions*, outlined the step by step instructions for completing the State-Supplied Price Sheet:

#### 4.4.5.2. STATE-SUPPLIED PRICE SHEET INSTRUCTIONS

The Bid Solicitation and State-Supplied Price Sheet contains two (2) Categories, which are itemized as follows:

Category Number	Price Number	Line	Description
1	1		Air Quality Testing Instruments, Equipment and Supplies
2	2		Water Quality Testing Instruments, Equipment and Supplies

---

<sup>1</sup> GEN-EL was listed as the intended awardee for other products and/or brands as noted in the July 26, 2021, Recommendation Report.

Agency Use Only	3	Agency Use Price Line for expedited delivery charges, restocking fees or return shipping charges only
-----------------	---	---

**Step 3** – The Vendor {Bidder} shall insert a firm, fixed percentage (%) discount or markup from the product catalog/price list, by entering the percentage discount or markup bid in the "Percentage (%) Discount (-) or Markup (+)" field on the price line on the State-Supplied Price Sheet. A Vendor's {Bidder's} entry in the "Percentage (%) Discount (-) or Markup (+)" field shall be considered a percentage (%). For example, entry of "50" shall be considered "50%" and that of "0.50" shall be considered "0.50%".

...

A series or a range of discounts/markups or fixed prices (firm dollar amount) on the price line shall not be acceptable and shall result in rejection of the Quote for that price line only.

If a Vendor {Bidder} is offering its pricing at the same pricing listed on the pre-printed catalog/price list, the Vendor {Bidder} should provide 0% in the "Percentage (%) Discount (-) or Markup (+)" field on the State-Supplied Price Sheet.

**Step 4** – The Vendor {Bidder} shall enter the brand name in the "Brand Name" field in the State-Supplied Price Sheet.

In its Quote, GEN-EL submitted three (3) separate State Supplied Price Sheets for Honeywell Rea Systems in response to Price Line #1 "Air Quality Testing Instruments, Equipment and Supplies". First, GEN-EL submitted a Quote for the product line identified as "Honeywell Rae Systems Portable Monitors", see screen shot below.

State of New Jersey Department of Treasury, Procurement Bureau 33 West State Street, P.O. Box 230 Trenton, NJ 08625				
STATE-SUPPLIED PRICE SHEET - T0983 Environmental Testing Instruments, Equipment and Supplies for Air and Water Quality Testing and Monitoring - Statewide (Bid Solicitation Number: 21DPP00589)				
Vendor's (Bidder's) Name:	Gen-el Safety & Industrial Products	Cash Discount for Expedited Payment (Refer to Bid Solicitation Section 4.4.5.6):		
Price Line Number	Category	Percentage (%) Discount (-) or Markup (+) from the Prices Offered on the Brand's Price List - See Bid Solicitation Section 4.4.5.2 <b>(REQUIRED)</b>	Brand Name - See Bid Solicitation Section 4.4.5.2 <b>(REQUIRED)</b>	Delivery Days After Receipt of Order (ARO) - See Bid Solicitation Section 4.4.5.4
1	Air Quality Testing Instruments, Equipment and Supplies	5% -	Honeywell Rae Systems Portable Monitors	5
2	Water Quality Testing Instruments, Equipment and Supplies			
3	For Agency Use Only - For expedited delivery charges, restocking fees or return shipping charges only. Vendors (Bidders) shall not bid on this price line.			

Second, GEN-EL submitted a Quote for the product line identified as "Honeywell Rea Systems Wireless Monitors", see screen shot below

State of New Jersey Department of Treasury, Procurement Bureau 33 West State Street, P.O. Box 230 Trenton, NJ 08625				
STATE-SUPPLIED PRICE SHEET - T0983 Environmental Testing Instruments, Equipment and Supplies for Air and Water Quality Testing and Monitoring - Statewide (Bid Solicitation Number: 21DPP00589)				
<b>Vendor's {Bidder's} Name:</b>		<b>Cash Discount for Expedited Payment (Refer to Bid Solicitation Section 4.4.5.6):</b>		
Gen-el Safety & Industrial Products				
Price Line Number	Category	Percentage (%) Discount (-) or Markup (+) from the Prices Offered on the Brand's Price List - See Bid Solicitation Section 4.4.5.2 <b>(REQUIRED)</b>	Brand Name - See Bid Solicitation Section 4.4.5.2 <b>(REQUIRED)</b>	Delivery Days After Receipt of Order (ARO) - See Bid Solicitation Section 4.4.5.4
1	Air Quality Testing Instruments, Equipment and Supplies	1% -	Honeywell Rae System Wireless Monitors	5
2	Water Quality Testing Instruments, Equipment and Supplies			
3	<b>For Agency Use Only -</b> For expedited delivery charges, restocking fees or return shipping charges only. Vendors {Bidders} shall not bid on this price line.			

Third, GEN-EL submitted a Quote for the product line identified as “Honeywell Rea Systems Fixed Meshgard Monitors”, see screen shot below

State of New Jersey Department of Treasury, Procurement Bureau 33 West State Street, P.O. Box 230 Trenton, NJ 08625				
STATE-SUPPLIED PRICE SHEET - T0983 Environmental Testing Instruments, Equipment and Supplies for Air and Water Quality Testing and Monitoring - Statewide (Bid Solicitation Number: 21DPP00589)				
<b>Vendor's {Bidder's} Name:</b>		<b>Cash Discount for Expedited Payment (Refer to Bid Solicitation Section 4.4.5.6):</b>		
Gen-el Safety & Industrial Products				
Price Line Number	Category	Percentage (%) Discount (-) or Markup (+) from the Prices Offered on the Brand's Price List - See Bid Solicitation Section 4.4.5.2 <b>(REQUIRED)</b>	Brand Name - See Bid Solicitation Section 4.4.5.2 <b>(REQUIRED)</b>	Delivery Days After Receipt of Order (ARO) - See Bid Solicitation Section 4.4.5.4
1	Air Quality Testing Instruments, Equipment and Supplies	1% -	Honeywell Rae Systems Fixed Meshgard Monitors	5
2	Water Quality Testing Instruments, Equipment and Supplies			
3	<b>For Agency Use Only -</b> For expedited delivery charges, restocking fees or return shipping charges only. Vendors {Bidders} shall not bid on this price line.			

Since all three (3) products proposed were in response to Price Line #1 Air Quality Testing Instruments, Equipment and Supplies and all three (3) products proposed are for Honeywell Rea Systems, the Bureau determined that GEN-EL provided “a series or range of discounts” for the same brand and was therefore non-responsive pursuant to Bid Solicitation Section 4.4.5.2 *State-Supplied Price Sheet Instructions*.

In determining whether GEN-EL’s submission violated the terms of the Bid Solicitation, it is important to understand the intent of the language and the reason that “a series or range of discounts” was prohibited. If a Vendor {Bidder} submits a range of discounts/markups on a price line, a Using Agency will not know what price or discounts/markups will apply at the time of purchase. The purpose of the language is to ensure that all Using Agencies are aware of and receive the same discount/mark-up for the

same product. Here however, GEN-EL did not submit a range of discounts/markups on a price line or applied to a product catalog/price list. Rather, with respect to the products manufactured by Honeywell Rea Systems. GEN-EL submitted a specific discount that applied to a specific product line produced by Honeywell Rea Systems.


In its submission, GEN-EL did provide three (3) separate brand price lists/catalogs in response to price line 1. Correspondingly, GEN-EL then provided three (3) separate State-Supplied Price Sheets, one for each brand price list/catalog. In response to price line 1, and as shown in the screen shots above, in accordance with Step 3 of the price sheet instructions, GEN-EL indicated a “firm, fixed percentage (%) discount or markup from the product catalog/price list, by entering the percentage discount or markup bid in the “Percentage (%) Discount (-) or Markup (+)” where required on the State-supplied price sheet. Further, in accordance with Step 4 of the price sheet instructions, GEN-EL indicated the brand name of the products proposed as required. Importantly, there is no definition for “brand name” included within the Bid Solicitation.

GEN-EL provided three separate State-Supplied Price Sheets. Each price sheet represented a specific Honeywell Rea Systems product line, as such, the discounts proposed for each product line were not the same. With each State-Supplied Price Sheets GEN-EL provided a separate and distinct brand price list/catalog. With this information, a Using Agency, when making a purchase, is certain as to the price or discounts/markups that will apply to a specific product at the time of purchase. As such, the intent of the Bid Solicitation language that prohibits the submission of a series or a range of discounts/markups is not violated.

In light of the findings set forth above, I overturn the Bureau’s determination that the submission of three (3) price lists/catalogs for three separate product lines by GEN-EL was non-responsive to the requirements of the Bid Solicitation which precluded the submission of a range of discounts/markups or fixed prices (firm dollar amount) on the price line. I remand this matter back to the Bureau for review and evaluation and the issuance of an award to GEN-EL if appropriate.

Thank you for your company’s continuing interest in doing business with the State of New Jersey and for registering your business with **NJSTART** at [www.njstart.gov](http://www.njstart.gov). 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 my final agency decision on this matter.

Sincerely,

  
Maurice A. Griffin  
Acting Director

MAG: RUD/DK

c. J. Kerchner  
K. Thomas  
R. Bowen