



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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May 23, 2018

Via Electronic Mail [robert.cimperman@gemalto.com] and USPS Regular Mail

Robert Cimperman
VP Sales and Marketing North America
Gemalto Cogent, Inc.
639 N. Rosemead Boulevard
Pasadena, CA 91107

Re: Specification Challenge
Bid Solicitation #18DPP00218
T3083 – 10 Print Live Scan Systems (LSS) New Jersey State Police (NJSP)

Dear Mr. Cimperman:

This correspondence is in response to your email of April 16, 2018, on behalf of Gemalto Cogent, Inc. (Gemalto) to the Division of Purchase and Property’s (Division) Procurement Bureau. As you were previously advised, that email was forwarded to the Division’s Hearing Unit and has been accepted as protest of the specifications for Bid Solicitation #18DPP00218: T3083 – 10 Print Live Scan Systems (LSS) New Jersey State Police (NJSP) (Bid Solicitation¹). In that correspondence, Gemalto alleges that the Bid Solicitation puts “all Bidders except for the incumbent at such a grave disadvantage as to prevent any possibility of fair and full competition under this Bid Solicitation.”

By way of background, the Bid Solicitation was advertised by the Division’s Procurement Bureau (Bureau) on March 14, 2018, on behalf of the Department of Law and Public Safety – Division of State

¹ For consistency, this final agency decision uses terminology employed by the State of New Jersey’s **NJSTART** eProcurement system. For ease of reference, the following is a table which references the **NJSTART** term and the statutory, regulatory and/or legacy term.

NJSTART Term	Statutory, Regulatory and/or Legacy Term
Bid Solicitation	Request For Proposal
Bid Amendment	Addendum
Change Order	Contract Amendment
Master Blanket Purchase Order	Contract
Offer and Acceptance Page	Signatory Page
Quote	Proposal
Vendor {Bidder}	Bidder
Vendor {Contractor}	Contractor

Police (NJSP). Bid Solicitation § 1.1 *Purpose and Intent*. The purpose of the Bid Solicitation is to solicit Quotes for 10 Print LSS, and electronic fingerprinting service for State and local agencies. Ibid. The State intends to award a Master Blanket Purchase Order (Blanket P.O.) to that responsible Vendor {Bidder} whose Quote, conforming to this Bid Solicitation, is most advantageous to the State, price and other factors considered. Ibid.

In accordance with the requirements of this Bid Solicitation, questions were to be submitted electronically through the Q&A Tab in *NJSTART* by March 28, 2018. Bid Solicitation § 1.3.1 *Electronic Question and Answer Period*. On April 11, 2018 the Bureau posted Bid Amendment #1 responding to the questions posted by potential bidders. On April 16, 2018, after the close of the Q&A period and after the Bureau posted responses to all questions received during the Q&A period, Gemalto submitted a letter to the Bureau protesting certain specifications contained in the Bid Solicitation. Gemalto alleges that the Bid Solicitation puts “all Bidders except for the incumbent at such a grave disadvantage as to prevent any possibility of fair and full competition under this Bid Solicitation.” In support of its specification challenge Gemalto points to the following Bid Solicitation requirements which it believes favors the incumbent contractor:

- Bid Solicitation Section 3.6 *Optional Integrated MSPS Functionality* states that the Mug Shot Photo Sytem (MSPS) shall be offered separately and installed on pre-existing Live Scan Systems (LSS) purchased as a result of an award associated with this Bid Solicitation.

Gemalto alleges that the addition of mugshot equipment to a pre-existing system presents compatibility issues which would require any Bidder other than the incumbent to replace the entire system. *See Gemalto Protest, p. 2-3, emphasis added.*

- Bid Solicitation Section 3.10.3 *Post Warranty Maintenance and Support* states remedial and on-site preventive maintenance for all hardware, software, and software licensing at each individual live scan site by the Vendor {Contractor}. This maintenance and support shall include labor. It shall be conducted bi-annually and shall include, but not be limited to the following: a. Complete exterior cleaning of all components; b. Clean monitor screen; c. Vacuum Central Processing Unit (CPU); d. Vacuum cabinet, if applicable; e. Clean fingerprint scanner block; f. Clean old system records; g. Check signature pen operability and batteries; h. Record all serial numbers; i. Check all power and network connections; j. Repair or replace defective Hardware, if applicable; and k. Update software and software licensing, if applicable Remedial and on-site preventative maintenance by Gemalto employees would not be possible, especially in the case of subpart (k) above.

Gemalto alleges that a non-incumbent Vendor {Bidder} could not simply update a pre-existing system with its own software, the entire system would need to be replaced due to compatibility issues with the scanner. *See Gemalto Protest, p. 3.*

- Bid Solicitation Section 3.10.3 *Post Warranty Maintenance and Support* further requires that additional yearly post warranty maintenance and support be offered to the Using Agency indefinitely, unless the State Contract Manager specifies, in writing, that a specific LSS or LSS Site does not require post warranty maintenance and support.

Again, Gemalto alleges that a non-incumbent Vendor {Bidder} could not offer the maintenance and support required. Rather, a non-incumbent awardee would have to replace every LSS in the State. *See Gemalto Protest, p. 3.*

- Bid Solicitation Section 3.2 *LSS Requirements* states that the LSS shall be capable of accepting table updates via a Vendor {Contractor} owned central server or be manually updated by the Vendor {Contractor}.

Gemalto state that while it is possible to have a centralized server in the State for table updates, a non-incumbent awardee will not have the ability to perform table updates on the incumbent's system. *See Gemalto Protest, p. 3.*

- Bid Solicitation Section 3.11 *Training* requires that the Vendor {Contractor} provide additional on-site or remote training as requested by the Using Agency.

Gemalto notes that it is not possible for it to provide training on the incumbent system, MorphoTrak, especially "upon request." *See Gemalto Protest, p. 3.*

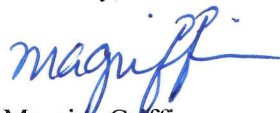
In consideration of Gemalto's specification challenge, I have reviewed the record of this procurement, including the Bid Solicitation, relevant statutes, regulations and case law. This review has provided me with the information necessary to determine the facts of this matter and to render an informed agency determination regarding Gemalto's specification challenge.

The review of the Gemalto's specification challenge and the Bid Solicitation has resulted in a revision to the Bid Solicitation. Bid Amendment #4 has been posted on [NJSTART](#) in connection with this Bid Solicitation. Specifically, Bid Amendments #4, the revised Bid Solicitation and the revised Price Sheet advise potential Vendors {Bidders} that the requirements of the Bid Solicitation relate only to purchases made under the Blanket P.O. to be awarded as a result of this procurement. Specifically, Bid Solicitation Section 3.0 *Scope of Work* has been amended to state:

Live scan purchases and maintenance will be for new Live Scan System(s) (LSS) purchased by the State, as needed, from the awarded Vendor {Bidder} of this Bid Solicitation {RFP}. There is no requirement for one Vendor (the awarded Vendor {Bidder} of this Bid Solicitation {RFP}) to maintain another Vendor's existing equipment. LSS purchased from this Bid Solicitation {RFP} and subsequent Blanket P.O. {Contract} will be supported by this awarded Vendor {Bidder} only. This awarded Vendor {Bidder} will not support another Vendor's {Bidders}'s existing LSS and related equipment.

Thank you for your company's 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 Griffin
Acting Director

MAG: RUD

c: L. Leonardi
M. Tagliaferri
G. Buddie