CONFIDENTIALITY AND COMMITMENT TO DEFEND

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY - DIVISION OF PURCHASE AND PROPERTY
33 WEST STATE STREET, P.O. BOX 230 TRENTON, NEW JERSEY 08625-0230

BID SOLICITATION # AND TITLE: 20DPP00537 / Maintenance/Repair and Replacement Services Portable Commercial Mobile Generator

The Bid Solicitation advises Vendors {Bidders} (hereinafter "Company") that the submitted "Quotes can be released to the public pursuant to N.J.A.C. 17:12-1.2(b) and (c), or under the New Jersey Open Public Records Act (OPRA), N.J.S.A. 47:1A-1.1 et seq., or the common law right to know."

In the event that the Division receives a request for documents related to above referenced Bid Solicitation, in accordance with its statutory obligations under the New Jersey Open Public Records Act and/or the common law right to know, it is the Division's intent to fulfill the request for records which may include a copy of the Company's Quote.

If Company objects to the disclosure of any portions of the Quote, the Company must advise the Division and must attach a detailed statement clearly identifying those sections of the Quote that Company claims are exempt from disclosure. In requesting any exemption, Company must identify the specific statutory or other legal justification for each requested exemption and the factual basis that supports said exemption.

In addition, if Company requests any exemption to disclosure of the Quote based upon claims of confidential/proprietary information and trade secrets (setting forth the nature of the formula, process, pattern, device or compilation), Company must also indicate the following with respect to the requested exemption:

(1) the extent to which the information is known outside the owner's business;
(2) the extent to which it is known by employees and others involved with your business;
(3) the extent of the measures taken by your firm to guard the secrecy of the information;
(4) the value of the information to your firm and your competitors;
(5) the amount of effort or money expended by your firm in developing the information; and
(6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

[Ingersoll-Rand Co. v. Ciavatta, 110 N.J. 609 (1988)].

Further, if the Quote includes any copyright notices, within five business days, the Division will be permitted to release a copy of the Quote document(s) unless Company serves the Division with an order from a court of competent jurisdiction precluding such release.

The State reserves the right to make the final determination as to what is and is not subject to public disclosure under OPRA and/or the common law right to know, and will advise the Company accordingly. Please note that the State will not honor any claim of confidential, proprietary, trade secret, and/or copyright material that is not supported by a specific statutory or legal justification provided by the Company. The State will not honor any attempts by the Company to designate the entire Quote as proprietary, confidential and/or to claim copyright protection for its entire Quote.

Accordingly, in order to assist the Division with the fulfillment of potential document requests, please select **one** of the following:

☐ The Company's Quote **does not include** any confidential, proprietary and/or trade secrets; and therefore, the Company does not request any redactions be made prior to the release of the documents.

OR

☐ The Company's Quote **does include** confidential, proprietary and/or trade secrets; and therefore, the Company requests that certain portions of the Quote be redacted prior to the release of the documents.

The requested redactions are set forth in the attached statement which specifically identifies the portions of the Quote by section, page number, paragraph and or line; and identifies the specific statutory or other legal reason for each requested exemption.

In the event of any challenge to the Company's assertion of confidential/proprietary information, the Company shall be solely responsible for defending its designation.

Company agrees that it shall defend and cooperate in the defense of an action against the State of New Jersey arising from or related to the non-disclosure, due to the Company's request, of documents submitted to the State of New Jersey, and relating to a Quote submitted by the Company in response to the above referenced Bid Solicitation, which was the subject of a request for government records under the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq. ("OPRA"), or the common law right to know.

The Company further agrees to indemnify and hold harmless the State against any judgments, costs, or attorneys' fees assessed against the State in connection with any action arising from, or related to, the non-disclosure, due to the Company's request, of documents submitted to the State, which are the subject of a request for government records under OPRA.

The Company makes the forgoing agreement with the understanding that the State may immediately disclose any documents withheld without further notice if the Company ceases to cooperate in the defense of an action against the State arising from or related to the above described non-disclosure due to the Company's request, and will disclose such documents withheld if so ordered by a court of competent jurisdiction.

The undersigned certifies that s/he is duly authorized to make this commitment on behalf of the Company.

_____
Company Name

_____ _____
Signature Date

_____
Print Name and Title

DESCRIPTION OF VENDOR REQUESTED QUOTE REDACTIONS*				
Quote Section, Form or Document	**Page Number**	**Paragraph and/or line**	**Description of item to be redacted**	**Statutory or other legal reason for each requested exemption**

** Home address and/or unlisted telephone/cell phone numbers must be listed on this form if they are to be redacted.*