



State of New Jersey

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DIVISION OF PURCHASE AND PROPERTY
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July 22, 2016

Via Electronic [angie@textilegroup.net and tabb@textilegroup.net] and USPS Regular Mail

Alan Fenster
Tabb Textile Co., Inc.
P.O. Box 2707
Opelika, AL 36803

Re: Protest of Notice of Intent to Award
RFP #: 16-X-23795: Textiles: Fabrics Towels/Washcloths, Mattress & Pillow Components

Dear Mr. Fenster:

This correspondence is in response to your letter on behalf of Tabb Textile Co, Inc. (Tabb Textile) received by the Division of Purchase and Property's (Division) Hearing Unit on December 7, 2015. In that letter, Tabb Textile protests the Notice of Intent to Award (NOI) a contract for Solicitation #16-X-23795: Textiles: Fabrics Towels/Washcloths, Mattress & Pillow Components issued by the Division's Procurement Bureau (Bureau). Specifically, Tabb Textile protests the award of price lines 00009, 00010, 00026, 00027, and 00028.

By way of background, the Request for Proposal (RFP) was issued by the Bureau on February 25, 2015, on behalf of the Department of Corrections, Bureau of State Use Industries (Deptcor) to solicit proposals for textiles and fabrics and various cut and unhemmed towels, toweling material, and washcloths and mattress and pillow components for use in the State's prison industry. (RFP § 1.1 *Purpose and Intent*.) This solicitation is a reprourement of similar products offered under the current contract T1046. (RFP § 1.2 *Background*.) It is the intent of the State to award one contract to the responsible bidder whose proposal, conforming to this RFP, is most advantageous to the State, price and other factors considered. (RFP § 1.1 *Purpose and Intent*.)

The RFP provided that bidders could bid on any one or more lines or grouping of lines. (RFP § 4.4.7 *Method of Bidding*.) However, in order to be considered responsive, when bidding on grouped price lines (00014 through 00022, 00027 through 00029, 00030 through 00031, 00032 through 00034, and 00035 through 00036), the bidder must submit prices for all price lines within the group being bid. *Ibid*.

On April 1, 2015, in response to the RFP, 16 proposals were received by the Division's Proposal Review Unit. One bidder was automatically rejected for not signing/completing the Ownership Disclosure Form as per RFP § 4.4.1.2. The remaining 15 proposals were forwarded to the Bureau for review and evaluation based upon the criteria outlined in RFP § 6.6 *Evaluation Criteria*.

Based upon the Bureau's evaluation of the 15 proposals, a NOI was issued to award price lines as outlined in the following chart:

Bids	Price Lines
Club Tex	00001, 00002, 00004, 00005, 00006
Tabb Textile	00003 and 00024
Cotswold Industries	00007 and 00008
T. Roberts Fabrics LLC	00009
Jag Textiles Company	00010, 00011, 00014 thru 00022
Atlantic Textile	00012, 00030 and 00031
Raytex Fabrics Inc.	00023
ATD American Co	00026
American Textile	00027 thru 00029
Aberdeen Road/DBA Herculite Products	00032 thru 00036
Spectex Inc.	00037 and 00038

As noted in the chart above, Tabb Textile was recommended for award of price line Nos. 00003 and 00024. Tabb Textile protests the award of the following price lines: 00009 (Muslin Sheeting Fabric), 00010 (Pantone Bright White Broadcloth Fabric), 00026 (Wool Blankets, Cut/Unhemmed), 00027 (White Bleached Towels, Cut/Unhemmed) and 00028 (White Bleached, Terry Toweling Roll Goods).¹

In consideration of Tabb Textile's protest, I have reviewed the record of this procurement, along with the 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 final agency decision on the merits of the protest points submitted by Tabb Textile, which are addressed below.

Protest of price line No. 00009 (Muslin Sheeting Fabric)

In its protest of price line 00009, Tabb Textile questions whether there has been confirmation through a certified lab that the product provided by the intended awardee has a thread count of 68x60, a minimum weight of 3.25 oz. per sq. yd., and has the correct fiber content.²

For price line 00009, the RFP specifications indicate as follows:

3.8.3 MUSLIN SHEETING FABRIC (PRICE LINE 00009)

This specification offers technical guidelines for first quality muslin fabric suitable for the manufacturing of items for institutional use such as sheets and pillow cases. The fabric color(s) shall be as specified in the price line items on the pricing sheet. The fabric shall conform to the following fabric manufacturing guidelines and standards.

3.8.3.1 FABRIC SPECIFICATION

Basic Construction: Plain weave

Finish: Pre-shrunk; White may be bleached with fluorescent optical brightener

Finished Fabric Weight: 3.25 oz. per square yard minimum

¹ Tabb Textile protests the notice of award of price lines 00027 and 00028, however, as indicated in the RFP, these price lines were required to be bid and awarded as a grouping of price lines 00027 through 00029. (RFP §§ 4.4.7 and 7.2.) Tabb Textile did not protest the notice of award of price line 00029.

² Tabb Textile also inquires, for price lines 00009 and 00010, whether the certified lab reports are available through the Freedom of Information Act, which I deem to mean New Jersey's Open Public Records Act, N.J.S.A. 47:1A-1 et seq. (OPRA). I note that under the OPRA statute, all government records are subject to public access, unless exempt from such access by the statute.

Fiber Content: 50% polyester 50% cotton (+/- 3%)
Minimum Thread Count in Finished Goods: 68 x 60 ends/picks per inch
Uniform Cuttable Width: 66" minimum
Selvage: Shall be tucked, where the fill yarn reverses at the perimeter warp yarn, forming a smooth, fringe-less border. (No exceptions)
Fabric shall be one continuous piece, 250 linear yards maximum, 100 linear yards minimum per roll with one end of run roll allowed per 100 rolls.

With regard to this protest point, while Tabb Textile's protest was pending, the intended awardee for price line 00009 withdrew its proposal for this price line indicating that it could not provide the product at the original pricing submitted with its proposal. The award of this price line is therefore rescinded and the Bureau is directed to conduct a further review and evaluation of the responsive proposals submitted, to request any necessary testing be completed, and to award this price line as appropriate.

Protest of price line No. 00010 (Pantone Bright White Broadcloth Fabric)

In protesting price line 00010, Tabb Textile asks whether a certified lab has confirmed the thread count of 96x56, a minimum weight of 3.2 oz. per sq. yd., and that the product has the correct fiber count.

For price line 00010, the RFP specifications indicate as follows:

3.8.4 BROADCLOTH FABRIC (PRICE LINE 00010)

This specification offers technical guidelines for first quality broadcloth fabric suitable for the manufacturing of garments for institutional use such as boxer shorts. The fabric color shall be as specified in the price line item on the pricing sheet. The fabric shall conform to the following fabric manufacturing guidelines and standards.

3.8.4.1 FABRIC SPECIFICATION

Basic Construction: Plain weave
Finish: Pre-shrunk; White may be bleached with fluorescent optical brightener
Finished Fabric Weight: 3.2 oz. per square yard minimum (+/-5%)
Fiber Content: 50% polyester 50% combed cotton (+/- 3%)
Minimum Thread Count in Finished Goods: 96 x 56 ends/picks per inch
Uniform Cuttable Width: 60" minimum
Selvage: Raw, finished or tucked edges will be accepted Fabric shall be one continuous piece, 250 linear yards maximum, 100 linear yards minimum per roll with one end of run roll allowed per 100 rolls.

With respect to this protest point, the New Jersey Department of Treasury's Distribution and Support Services Laboratory's (DSS) independent testing during the evaluation process verified that the sample products submitted by the intended awardee meet the specification required by the RFP. The Hearing Unit reviewed the RFP specification related to price line 00010 and DSS's testing results and found no reason to question DSS's verification that the products to be provided by the intended awardee meets the RFP specifications.

Protest of price line No. 00026 (Wool Blankets, Cut/Unhemmed)

Tabb Textiles' protest questions whether there was confirmation that the wool blanket to be provided by the intended awardee is "unsewn on four sides." Tabb Textile also indicates that the product

is “actually less expensive when purchased finished and, therefore everyone’s price for a finished product would have been less.”

For price line No. 00026, the RFP specifications indicate as follows:

3.8.15 WOOL BLANKET (PRICE LINE 00026)

This specification offers technical guidelines for a first quality cut and unhemmed blanket to be one piece suitable for use in various state correctional institutes. Blanket must meet current commercial laundering and flame retardant specifications. Each blanket must be labeled for fiber content in accordance with the Rules and Regulations under the Textile Fiber Products Identification Act or labels to be provided.

3.8.15.1 FABRIC SPECIFICATIONS

Content: 50% Natural Wool and 50% Synthetic (+/-5%)

Construction: Loom Woven

Texture: Soft

Color: Shade between Neutral Gray 17-4402 TP and Charcoal Gray 18-0601 TP

Edges: Two sides with ravel proof, finished selvage and two sides unhemmed

Fabric Weight: 13.5 oz. min. per square yard

Blanket Weight: 3.5 pounds min. per blanket

Finished Size: 62” x 84”

Finish: Plush napped on both sides

With respect to this protest point, DSS’s independent testing verified that the sample products submitted by the intended awardee meet the specification required by the RFP. The Hearing Unit reviewed the RFP specification related to price line 00026 and DSS’s testing results and found no reason to question DSS’s verification that the products to be provided by the intended awardee meets the RFP specifications.

With respect to Tabb Textile’s indication that a finished product would be cheaper, the using agency determined that it required wool blankets with the specification indicated above. Therefore, a finished product does not satisfy the needs of the agency.

Protest of price line Nos. 00027 (Cotton Blend Bath Towels, Cut & Unhemmed) and 00028 (Cotton Blend Toweling Roll Goods)

Related to price lines 00027 and 00028, Tabb Textile questions whether the towels and toweling proposed by the intended awardee meet the specification requirement as it believes the products being provided by the intended awardee are a lower quality than that required by the RFP specifications. Tabb Textile indicates that its towel meets or exceeds the specifications, and that if products lower than the specifications require are being accepted, the price line for these products should be rebid with new specifications indicating the lower requirements.

For price lines 27 and 28, the RFP specifications indicate as follows:

3.8.16 COTTON BLEND BATH TOWELS, CUT & UNHEMMED (PRICE LINE 00027)

Woven Construction, 86% Cotton/14% Polyester Overall Blend, 100% Terry Loops, Bleached White, Preshrunk. Pile Yarn: 16/1 Ring Spun; Ground Yarn: 20/2 Ring Spun; Weft Yarn: 16/1 Ring Spun. Unhemmed Edge on Both Short Edges and Woven Selvage Finish on Both Long Edges. (Weave Selvage not less

than 1/4" and not more than 3/8" wide.) Finishes to a 20" x 40" Towel with Minimum Weight of 5.5 lb/Dozen
(****PRICE LINES 00027 THRU 00029 ARE GROUPED****)

3.8.17 SPECIFICATIONS FOR COTTON BLEND TOWELING ROLL GOODS (PRICE LINE 00028)

Woven Construction, 86% Cotton/14% Polyester Overall Blend, 100% Terry Loops, Bleached White, Preshrunk. Pile Yarn: 16/1 Ring Spun; Ground Yarn: 20/2 Ring Spun; Weft Yarn: 16/1 Ring Spun. Roll size: 20" x 150 Yards (+/- 1 yard to yield 125 finished towels) Width with Cut Marks Every 42" to allow for a finished hemmed edge of seam type EFB-1 not less than 1/4" and not more than 3/8" wide. Cloth shall have Cam Borders (area without looping) of not less than 1/2" and not more than 1" wide by full width. There shall be no other design woven into the cloth. Continuous Edges are to be of Woven Selvage on Both Sides. Finished Towel Size to be 20" x 40" and Yield a Minimum Weight of 5.5 lb/Dozen (+3%/-0%).

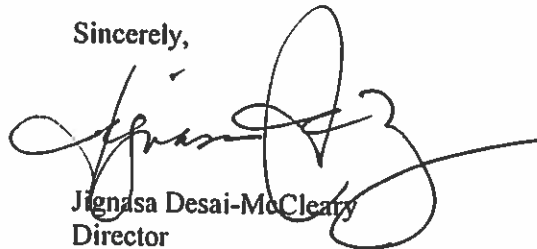
(****PRICE LINES 00027 THRU 00029 ARE GROUPED****)

With respect to this protest point, in response to a clarification request, the intended awardee indicates that it cannot provide a woven selvage on both long edges as required by the RFP specifications and therefore it is withdrawing its bid for these price lines. Based upon this withdrawal this protest point submitted by Tabb Textile is moot. The award of price lines 00027 through 00029 is rescinded (as these price lines are awarded as a group) and the Bureau is directed to conduct a further review and evaluation of the responsive proposals submitted, to request any necessary testing be completed, and award these price lines as appropriate.

In light of the findings set forth above, the NOI for price line 00009 and for group price lines 00027 through 00029 is rescinded and remanded to the Bureau for further consideration as outlined herein. The remainder of the NOI is sustained. The Bureau is directed to award all other price lines as appropriate. This is my final agency decision with respect to the protest submitted by Tabb Textile.

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,



Jignasa Desai-McCleary
Director

JDM:MAG

c: J. Kerchner
K. Thomas
V. Klawitter