



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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September 10, 2018

Via Electronic Mail [wshiler@aol.com] and USPS Regular Mail

Tina Hiler
Hiler Trucking, LLC
91 Cobb Street
Rockaway, NJ 07866

Re: I/M/O Bid Solicitation #18DPP00222 Hiler Trucking, LLC
Protest of Notice of Proposal Rejection
T2924 Snow Plowing Services by Area - NJDOT

Dear Mr. Hiler:

This letter is in response to your correspondence dated September 7, 2018, on behalf of Hiler Trucking, LLC (Hiler) which was received by the Division of Purchase and Property's (Division) Hearing Unit. In that correspondence, Hiler protests the August 23, 2018 Notice of Intent to Award (NOI) issued by the Division's Procurement Bureau (Bureau) for Bid Solicitation #18DPP00222 – T2924 Snow Plowing Services by Area - NJDOT (Bid Solicitation).

By way of background, on February 13, 2018, the Bureau issued the Bid Solicitation on behalf of the New Jersey Department of Transportation (NJDOT), to solicit Quotes from qualified Vendors {Bidders} to provide snow plowing services for areas of State interstates and highways under the jurisdiction of the NJDOT. Bid Solicitation § 1.1 *Purpose and Intent*. It is the State's intent to award Statewide Master Blanket Purchase Orders (Blanket P.O.s)¹ to those responsible Vendors {Bidders} whose

¹ For consistency, this 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

Quotes, conforming to this Bid Solicitation are most advantageous to the State, price and other factors considered. Ibid.

On March 16, 2018, the Bureau issued Bid Amendment #1 responding to the questions posed by potential Vendors {Bidders}. On April 12, 2018, the Division's Proposal Review Unit opened 21 Quotes which were received by the submission deadline of 2:00 pm eastern time. After conducting a review of the Quotes received, on April 19, 2018, the Division's Proposal Review Unit issued a Notice of Proposal Rejection to Hiler's for failure to submit the *Ownership Disclosure Form*, the *Disclosure of Investment Activities in Iran Form* or pricing information with its Quote.

The remaining Quotes were forwarded to the Bureau for review and evaluation consistent with the requirements of Bid Solicitation Section 6.7 *Evaluation Criteria*. On August 20, 2018, the Bureau completed its Recommendation Report which recommended Blanket P.O. awards to those responsible Vendors {Bidders} whose Quotes, conforming to the Bid Solicitation are most advantageous to the State, price and other factors considered. On August 23, 2018, the NOI was issued advising all Vendors {Bidders} that it was the State's intent to award a Blanket P.O.s consistent with the Bureau's Recommendation Report.

On September 7, 2018 the Division's Hearing Unit received Hiler's email protesting the August 23, 2018 NOI. In that email Hiller states:

In regards to the attached email, Hiler Trucking would like to dispute the intent to award for all routes listed to all companies listed. We would like the opportunity to bid on all sections. We in fact have the equipment to cover listed routes as well as valid registrations, valid insurance, and man power to operate during any storm where equipment is required. We do not feel any of the companies can do the same. Please advise.

The Division's governing regulations require that in submitting a protest, the protestor shall set forth the specific grounds for challenging the intended award. Specifically,

1. A protest regarding the Director's decision to award a contract shall contain the following items:
 - i. Identification of the Division's solicitation number for the particular procurement;
 - ii. The specific grounds for challenging the intended contract award, including all arguments, materials and/or other documentation that may support the protestor's position that the contract award should be overturned; and
 - iii. A statement as to whether the protestor requests an opportunity for an in-person presentation and the reason(s) for the request.

[N.J.A.C. 17:12-3.3(b)(1), emphasis added.]

Here, Hiler has not provided any ground(s) for challenging the award of Blanket P.O.s. Therefore, Hiler's protest is administratively dismissed for not providing any specific grounds for challenging the intended contract award.

Further, as noted above, Hiler's Quote was automatically rejected for failing to include the *Ownership Disclosure Form*, the *Disclosure of Investment Activities in Iran Form* or pricing information with its Quote. Hiler did not submit a protest to the Division regarding the automatic rejection of its Quote

submission, and therefore its Quote was not evaluated by the Bureau.² For the sake of completeness, in connection with Hiler's September 7, 2018 protest, the Division's Hearing Unit reviewed Hiler's submitted Quote. That review confirmed that Hiler did not include the *Ownership Disclosure Form*, the *Disclosure of Investment Activities in Iran Form* or pricing information with its Quote as required by the governing statutes and regulations. N.J.S.A. 52:25-24.2, N.J.S.A. 52:32-58, and N.J.A.C. 17:12-2.2. If the requirements of N.J.S.A. 52:25-24.2, N.J.S.A. 52:32-58, and N.J.A.C. 17:12-2.2 are not met, a Quote must be rejected. These statutes and regulations mandate stringent enforcement to maintain the equal footing of all Vendors {Bidders} and to ensure the integrity of the State's bidding process.

Because Hiler did not include the *Ownership Disclosure Form*, the *Disclosure of Investment Activities in Iran Form* or the necessary pricing information with its Quote, it is precluded from receiving a Blanket P.O. award. This is an unfortunate situation for the State, as we encourage competition and appreciate your expertise in the field. However, in light of the findings set forth above, I have no choice but to deny your request for eligibility to participate in the competition for the subject contract.

Finding no reason to disturb the Bureau's recommendation, I sustain the Proposal Review Unit's Notice of Proposal Rejection and the August 23, 2018, Notice of Intent to Award. This is my final agency decision with respect to the protest submitted by Hiler.

Thank you for your company's continuing interest in doing business with the State of New Jersey and for registering your company with [NJSTART](http://www.njstart.gov) at www.njstart.gov, the State of New Jersey's eProcurement system.

Sincerely,



Maurice A. Griffin
Acting Director

MAG: RUD

c: P. Michaels
L. Spildener
M. Groninger

² In accordance with the Division's governing regulations, a protest of the Notice of Proposal Rejection should have been submitted to the Division with 10 days of Hiler receiving notice that its Quote had been rejected. The Notice of Proposal Rejection was sent to Hiler on April 19, 2018. Accordingly, if Hiler wished to protest the Notice of Proposal Rejection, it should have submitted a protest to the Division by May 10, 2018. N.J.A.C. 17:12-3.3