



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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May 1, 2018

Via Electronic Mail [aonehauling@yahoo.com] and USPS Regular Mail

Nicolette Burns
A-One Waste Solutions
771 Watsontown Road
Berlin, NJ 08009

Re: I/M/O Bid Solicitation #18DPP00205 A-One Waste Solutions
Request for Reconsideration - Protest of Notice of Proposal Rejection
T0777 Snow Plowing and Spreading Services

Dear Ms. Burns:

This letter is in response to your email of April 16, 2018, on behalf of A-One Waste Solutions ("A-One") which was received by the Division of Purchase and Property's ("Division") Hearing Unit. In that email, A-One requests that the Division reconsider the April 16, 2018, final agency decision which upheld the Proposal Review Unit's Notice of Proposal for Bid Solicitation #18DPP00205 - T0777 Snow Plowing and Spreading Services ("Bid Solicitation"). In the request for reconsideration A-One states:

I am sorry we have been a current vendor for NJDOT for the past five years so this is newer to me as all previous bidding was completed via hard copies. Is this rejection because I did not upload it to NJSTART? I spoke with [a representative from the Proposal Review Unit on] Friday and she confirmed submission via fax was okay. Is there any steps I can take to rectify this issue?

In consideration of A-One's request for reconsideration, I have reviewed the record of this procurement, including the Bid Solicitation, A-One's proposal, protest and request for reconsideration, 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. I set forth herein the Division's Final Agency Decision.

As discussed in the Division's April 16, 2018 final agency decision - on January 30, 2018, the Division's Procurement Bureau ("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 and spreading services on all State interstates and highways under the jurisdiction of 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”) to those responsible Vendors {Bidders} whose Quotes, conforming to this Bid Solicitation are most advantageous to the State, price and other factors considered.¹ Ibid.

On February 28, 2018, the Bureau issued Bid Amendment #1 responding to the questions posed by potential Vendors {Bidders}. On March 16, 2018, the Division’s Proposal Review Unit opened 136 Quotes submitted through the State’s **NJSTART** eProcurement system and 41 Quotes received in hardcopy format by the submission deadline of 2:00 pm eastern time. After conducting a review of the Quotes received, the Division’s Proposal Review Unit issued a Notice of Proposal Rejection to A-One for failure to submit the *Ownership Disclosure Form* and the *Disclosure of Investment Activities in Iran Form* with its Quote.

In response to the Notice of Proposal Rejection, on April 11, 2018 and April 12, 2018, A-One wrote to the Division’s Hearing Unit protesting the Notice of Proposal Rejection. With its protest, A-One submitted copies of the missing forms. On April 16, 2018 the Division issued its final agency decision which upheld the Proposal Review Unit’s Notice of Proposal Rejection. In that final agency decision I advised that the Division does not have the power to waive the legislative requirements (1) that a Vendor {Bidder} provide its ownership information prior to or accompanying the Quote submission; or (2) that a Vendor {Bidder} certify with its Quote that it is not engaged in investment activities in Iran. See, N.J.S.A. 52:25-24.2, N.J.S.A. 52:32-58, and N.J.A.C. 17:12-2.2. 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. Only the New Jersey Legislature can change a requirement it has mandated.

In the request for reconsideration, A-One states that “we have been a current vendor for NJDOT for the past five years so this is newer to me as all previous bidding was completed via hard copies.” The subject Bid Solicitation was publically advertised and available on the State of New Jersey’s **NJSTART** eProcurement system. However, as in prior procurements conducted under the State’s prior procurement system known as eRFP, the subject solicitation permitted Vendors {Bidders} to submit Quotes either through the **NJSTART** or through hard copy. Specifically, the Bid Solicitation section 1.3.2 *Submission of Quotes* advised all potential Vendors {Bidders} that “Vendors {Bidders} shall submit a Quote {Proposal} either electronically through **NJSTART** or via hard copy.”

Had A-One preferred, it could have submitted the Quote by hard copy format. In fact, 41 Quotes were received in hardcopy format. Here, A-One chose to submit the Quote through the Division’s **NJSTART** eProcurement website.

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

Finally, I note that as specified in the Notice of Proposal Rejection, A-One was permitted to submit its protest to the Hearing Unit by fax, email or hard copy – all of which are noted on the Notice of Proposal Rejection. The method for the submission of the protest has no bearing on the Division's ultimate decision regarding the protest. Rather, what is important is whether the mandatory information was provided with the submitted Quote as mandated by the Legislature. Unfortunately, A-One did not comply with any of the options available to it for the submission of ownership information or Iran certification. Accordingly, A-One's Quote was properly rejected by the Division's Proposal Review Unit for failure to submit the *Ownership Disclosure Form* and the *Disclosure of Investment Activities in Iran Form* with its Quote.

This is an unfortunate situation for the State as the Division encourages competition and appreciates the time and effort put forth in preparing and submitting the Proposal. 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. This is my final agency decision on this matter.

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, the State of New Jersey's new eProcurement system.

Sincerely,



Maurice A. Griffin
Acting Director

MAG: RUD

c: P. Michaels
L. Spildener
M. Groninger