



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR  
33 WEST STATE STREET

P. O. BOX 039  
TRENTON, NEW JERSEY 08625-0039  
<https://www.njstart.gov>

Telephone (609) 292-4886 / Facsimile (609) 984-2575

PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

ELIZABETH MAHER MUOIO  
*State Treasurer*

MAURICE A. GRIFFIN  
*Acting Director*

October 28, 2019

Via Electronic Mail [[gcadet1130@msn.com](mailto:gcadet1130@msn.com)] and USPS Regular Mail

Gardy Cadet  
Lucent Transit LLC  
225 Auster road,  
Orange, New Jersey 07050

Re: I/M/O Bid Solicitation #18DPP00248  
Protest of Notice of Intent to Award, Lucent Transit LLC  
T2910 Medical and Escort Transportation and Livery Services: DMAVA & CBVI

Dear Mr. Cadet,

This letter is in response to your protest, on behalf of Lucent Transit LLC. (Lucent), to the Procurement Bureau (Bureau) of the Division of Purchase and Property (Division), dated September 25, 2019, protesting the Notice of Intent to Award letter (NOI) issued on September 13, 2019 by the Bureau for Bid Solicitation #18DPP00248 T2846 – T2910 Medical and Escort Transportation and Livery Services: DMAVA & CBVI to Virgo Medical Services, Inc. (Virgo).

By way of background, on July 19, 2018, the Bureau issued Bid Solicitation #18DPP00248 on behalf of the New Jersey Department of Military & Veterans Affairs (DMAVA), and the Commission for the Blind and Visually Impaired (CBVI) to solicit Quotes for the transport and escort of residents to and from the New Jersey Veterans Memorial-Homes (NJVM-H) and/or the transport of consumers to and from various appointments for CBVI. Bid Solicitation § 1.1 *Purpose and Intent*. The intent of this Bid Solicitation is to award up to 12 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. *Ibid*. The number of awarded Blanket P.O.s will be based on the provision of a Primary and Alternate provider for all services in each region. *Ibid*. The State may award any and all price lines. *Ibid*.

In accordance with the Bid Solicitation Instructions, potential Vendor(s) {Bidder(s)} were permitted to submit questions to the Bureau, using the Division's *NJSTART* eProcurement system by 2:00 pm on August 2, 2018. *See*, Bid Solicitation Section 1.3.1 *Electronic Question and Answer Period*. The Bureau received nine (9) questions. Through the posting of Bid Amendment #2<sup>1</sup> on August 28, 2018, the Bureau answered all nine (9) questions received.

---

<sup>1</sup> Bid Amendment #1 revised the Quote Submission Due Date to September 19, 2018. However, this Bid Amendment was erroneously posted without answers to questions and revisions to the Bid Solicitation, as

In addition, on August 28, 2018, based upon the responses posted in Bid Amendment #2, the Bureau posted the Revised Bid Solicitation entitled "T2846 Revised Bid Solicitation 08/28/18".

On September 19, 2018, the Division's Proposal Review Unit opened three (3) Quotes, received by the submission deadline of 2:00 pm EST, from the following Vendors {Bidders}:

1. Lucent;
2. Pro Care Inc. dba Friendly Care (Pro Care); and
3. Virgo.

As noted in the Bureau's Recommendation Report, the Proposal Review Unit reviewed and confirmed that all three Quotes complied with all mandatory forms requirements. See Recommendation Report, pg. 2.

The three (3) Vendors {Bidders} submitted Quotes for both the DMAVA and CBVI services in the Northern and Central Regions, but no Vendor {Bidder} submitted a Quote for the Southern Region. Id. After conducting an initial review, the Bureau found that Lucent was non-responsive to mandatory requirements for DMAVA services in the Northern and Central Regions. Id. at 3.

With its Quote, Lucent submitted the following Price Schedule:

T2810 - Medical & Escort Transportation & Livery Services: DMAVA & CBVI				
Bid Solicitation #18DPP00248				
Price Schedule				
Vendor Name:	Lucent Transit Inc		Bid Opening Date:	8/30/2018
Line #	Description	Year 1	Year 2	Year 3
<b>NORTHERN REGION</b>				
DMAVA 1	All inclusive hourly rate for ambulance transportation with two (2) certified EMT-Bs per Section 3.2 (A)	\$0.00	\$0.00	\$0.00
DMAVA 2	All inclusive hourly rate for invalid coach staffed with one (1) MAVT per Section 3.2 (B)	\$85.00	\$100.00	\$110.00
DMAVA 3	All inclusive hourly rate for a van staffed with one (1) MAVT per Section 3.2 (C)	\$75.00	\$90.00	\$100.00
DMAVA 4	All inclusive hourly rate for Trip Coordinator per Section 3.4.1	\$60.00	\$75.00	\$85.00
DMAVA 5	All inclusive hourly rate for CHA Escort per Section 3.6	\$35.00	\$40.00	\$45.00
DMAVA 6	All inclusive hourly rate for emergency evacuation per Section 3.9	\$150.00	\$175.00	\$200.00
CBVI 7	All inclusive hourly rate for van/sedan staffed with driver per Section 3.2 (E)	\$65.00	\$75.00	\$85.00
<b>CENTRAL REGION</b>				
DMAVA 8	All inclusive hourly rate for ambulance transportation with two (2) certified EMT-Bs per Section 3.2 (A)	\$0.00	\$0.00	\$0.00

specified on the Bid Amendment description. Bid Amendment #2 notified potential Vendor(s) {Bidder(s)} of the erroneous description of Bid Amendment #1.

On November 2, 2018, the Bureau sent a Request for Clarification to Lucent, asking the following:

On the submitted Price Schedule your firm indicated \$0.00 for Price Line #1 in the Northern Region, and \$0.00 for Price Line #8 in the Central Region. Pursuant to Bid Solicitation Section 4.4.5.3, *Use of "No Bid" Versus "No Charge" On The State-Supplied Price Sheet*, the Procurement Bureau is requesting that your firm clarify as to whether the aforementioned pricing was submitted as *No Bid* or *No Charge*, as defined by Bid Solicitation Section 2.2, *General Definitions*.

[Bureau's November 2, 2018 Request for Clarification.]

On November 11, 2018, Lucent sent a response to the Bureau indicating that its submissions for Price Lines #1 and #8 were "No Bid." See Lucent's November 11, 2018 email to the Bureau. Lucent further indicated that, "Lucent Transit was in the process of teaming up with Metro Ambulance to provide a quote for the price schedule line #1 and line #8. Because of time restriction, Metro Ambulance was not able to provide the documents required to accompany my proposal on time." *Id.* In the Recommendation Report, the Bureau indicated that, "[a]s specified by Section 4.4.5.2, Vendors {Bidders} submitting Quotes for DMAVA services were required to submit pricing for all DMAVA price lines. Subsequently, the Bureau deemed Lucent to be non-responsive to mandatory requirements for DMAVA services in the Northern and Central Region. Lucent's Quote for the CBVI services in the Northern and Central Regions (Price Lines #7 and #14) was not impacted by this determination." See Recommendation Report, pg. 3. The Bureau removed Lucent from consideration of Blanket P.O. award for CBVI services because Lucent "have not met the financial capability measure and was deemed to present a highly probable risk to the State." *Id.*

As part of the Quote evaluations, the Bureau also reviewed the remaining Vendors' {Bidders'} financial capabilities, BAFOs and performance database. See Recommendation Report, pgs. 3-6. at 3. Pursuant to N.J.A.C. 17:12-2.8, the Bureau recommended bypassing ProCare's lower cost Quote due to the Vendor's {Bidder's} history of poor performance. *Id.* at 3-6. The Bureau found five (5) formal complaints filed with the Contract Compliance and Audit Unit (CCAU) that were resolved against ProCare. *Id.* at 5-6. As a result of the Bureau's evaluation and Recommendation Report, on September 13, 2019, a Notice of Intent to award a Master Blanket Purchase Order (Blanket P.O.) was sent to all three Vendors {Bidders} in notifying them of the award as follows:

- Northern Region – DMAVA Services – Virgo Medical Services, Inc.
- Northern Region – CBVI Services – Virgo Medical Services, Inc.
- Central Region – DMAVA Services – Virgo Medical Services, Inc.
- Central Region – CBVI Services – Virgo Medical Services, Inc.

[See September 13, 2019 Notice of Intent to Award.]

Because no responsive Quotes were received for the DMAVA or CBVI services in the Southern Region, no awards were made in the Southern Region. *Id.*

On September 25, 2019, Lucent sent letter to the Procurement Supervisor, requesting an in-person presentation and protesting the Bureau's decision to award Blanket P.O. to Virgo for the following reasons:

1. Lucent initially responded to RFP Solicitation # 17DPP00089 in August 2017. We had a very strong proposal with strong financial report backed

by our partner LIFELINE Medical Services. Lucent may have been the only one or one of two companies that responded to the 2017 solicitation. The agency however cancelled the solicitation in February 2018 for undisclosed reasons. Virgo did not submit a proposal in response to solicitation #17DPP00089 in 2017. An OPRA request has been submitted for information regarding the 2017 bidders.

2. The bid was reopened in 2018, given Virgo an advantage edge to enter the contest and submit a bid. The RFQ Solicitation # 18DPP00248 now included livery service to the CBVI. The RFQ also stated that the State is looking to award 12 Blanket contracts to several companies. Virgo won 2 regions consisting of 8 blanket contracts. Lucent Transit received zero contract both 2017 and 2018. This was a very unfair outcome.
3. In 2018, our partner Lifeline Medical was not able to collaborate with us because of other commitment. We were supposed to have Metro ambulance to team up with us. But because of time constrains, Metro was not able to provide the information needed in time for the 2018 submission. We sent the attached letter to the procurement specialist. Because of the changes in our team, we did not bid on line item #1 which required ambulance services.
4. The agency used the financial capability to disqualify Lucent without a chance to provide other financial opportunities that lucent could acquire. Lucent was further penalized for asking the agency for mobilization fund if a contract was award. This is common in the industry to request start up fund as deposit for mobilization. The VA has done so in the past to help companies that are highly technically qualify to provide greater service to Veterans but have financial difficulties. The purchasing specialist, Valerie Taylor had the option to request additional financial information from Lucent or allow Lucent time to team up with Metro. We notice that while Lucent was removed from consideration due to financial capability, the state continued to use the data provided by Lucent (price list) to justify the value of the contract being awarded to VIRGO.
5. We feel that the state should have made the effort to award some of the blanket P.0 to Lucent Transit. Virgo reported to have 56 vehicles most of which are already committed for projects New York and Pennsylvania. Lucent has plenty of assets about 20 vehicles titled in the company or the owner's name to effectively, successfully operate the wheelchair and Livery service in at least one region. Virgo is not a livery or limousine company. Lucent is a livery and wheelchair service company. The agency also had the additional option to put companies together which we believe would be of great benefit to the state.
6. Finally, We wonder how a small company like Lucent will ever win a state contract and gain the experience in the industry if the state is not willing to overlook at the financial barriers and consider the possibilities of receiving the best service and care for its customers. While both Pro-care and Virgo have had their shares of misconducts and violations, Lucent was clean. This should be taken in consideration.

[See Lucent's Protest Letter, pgs. 1-2.]

With respect to Lucent's request for an in-person hearing, I note that pursuant to N.J.A.C. 17:12-3.3(e), "[t]he Director has sole discretion to determine if an in-person presentation by the protester is necessary to reach an informed decision on the matter(s) of the protest. In-person presentations are fact-finding for the benefit of the Director." Further, "[i]n cases where no in-person presentation is held, such review of the written record shall, in and of itself, constitute an informal hearing." N.J.A.C. 12:12-3.3(d).

In consideration of Lucent's protest, I have reviewed the record of this procurement, including the Bid Solicitation, the Quotes received, the protest, the relevant statutes, regulations, and case law. The issues raised by Lucent are sufficiently clear such that a review of the record of this procurement 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 based on the written record. I set forth herein my Final Agency Decision.

Lucent's first protest point is that it submitted a Quote in response to Bid Solicitation# 17DPP00089 in 2017, while Virgo did not. See Lucent's Protest Letter, pg. 1. I note that the subject matter of this protest is Bid Solicitation #18DPP00248. Bid Solicitation# 17DPP00089 was canceled for reasons unrelated to the current procurement. Bid Solicitation #18DPP00248 was evaluated separately from the previous Bid Solicitation #17DPP00089 and is not the subject of the current Bid Solicitation. Quote submission in the previous Bid Solicitation was not a requirement for participation in Bid Solicitation #18DPP00248. Bid Solicitation #18DPP00248 is a reprocurement of similar services provided under Medical Transportation Service - DMAVA & CBVI term Blanket P.O., however, the Vendors {Bidders} were cautioned that Bid Solicitation #18DPP00248 was a new Bid Solicitation that addresses current requirements. See Bid Solicitation Section 1.2 *Background*. Therefore, Lucent's reference to Quotes submitted for Bid Solicitation# 17DPP00089 is improper and bears no connection to the subject matter of the current procurement.

In its second protest point, Lucent argues that it was unfair for Lucent not to receive any contracts pursuant to the 2017 and 2018 Bid Solicitations, while Virgo received 8 Blanket P.O.s. See Lucent's Letter of Protest, pg. 1. Pursuant to Bid Solicitation Section 1.1 *Purpose and Intent*, "[t]he intent of this Bid Solicitation is to award up to 12 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. The number of awarded Blanket P.O.s will be based on the provision of a Primary and Alternate provider for all services in each region. The State may award any and all price lines." (Emphasis added). The Division's Director has broad discretion to select among qualified bidders in public contracting matters. See N.J.S.A. 52:34-12(d); In re Jasper Seating Co., Inc.'s Request for Reconsideration Regarding Request for Proposal No. 07-X-37695, 406 N.J. Super. 213, 222-24 (App. Div. 2009). N.J.S.A. 52:34-12(d) makes clear that the Division's Director has the exclusive discretion to determine "which bid will be most advantageous to the State, 'price and other factors considered.'" Commercial Cleaning v. Sullivan, 47 N.J. 539 (1966).

The Bureau considered the evaluation criteria identified in Bid Solicitation Section 6.7.1 *Technical Evaluation Criteria* when it reviewed Virgo's Quote for compliance with the Bid Solicitation's requirements. The Committee determined that Virgo met the requirements of the Bid Solicitation and successfully demonstrated its ability to undertake and complete the Scope of Work. (See, Recommendation Report, p. 4). It also deemed Virgo's pricing to be reasonable and acceptable and recommended award to Virgo as the sole responsive and responsible Quote. *Id.* at 7. Thus, the Bureau determined that making an award to Virgo will be most advantageous to the State, price and other factors considered. Finally, as to Lucent's complaint that it was unfair that Lucent did not receive any Blanket P.O.s., Lucent is not entitled

to a contract award simply because it submitted a Quote. No bidder is entitled to award of a public contract. Commercial Cleaning Corp. v. Sullivan, 47 N.J. 539, 546 (1966). Here, Lucent's proposal for Bid Solicitation #18DPP00248 was deemed non-responsive because Lucent failed to submit a bid for 2 Price Lines.

Lucent's third protest point is that it was because changes in its team, more specifically because Lifeline Medical was unable to collaborate with them, Lucent failed to bid on Price Line #1. See Lucent's Protest Letter, pgs. 1-2. While this is an unfortunate situation, Lucent acknowledges that it did not bid for Price Line #1, therefore its failure to receive any Blanket P.O.s for Price Line#1 is justified.

Lucent's fourth protest point is that it should have been given "a chance to provide other financial opportunities". See Lucent's Protest Letter, pg. 2. The Division's Financial Analyst conducted a financial capability review of each of the three (3) Vendors {Bidders}, and determined that Lucent presented a highly probable risk to the State. See Recommendation Report, pg. 3. The Bureau relied on the expertise of the Financial Analyst in recommending that Lucent is removed from consideration of Blanket P.O. award for CBVI services. Because Lucent provided three years of financial information for review, no additional information was requested by the Financial Analyst and the Bureau. The record supports Bureau's determination that Lucent was not financially viable to perform CBVI services, and it would not be in the best interest of the State and disabled community directly serviced by the contract through the CBVI to award Blanket P.O. to Lucent.

In its fifth protest point, Lucent argues that the State, "should have made the effort to award some of the blanket P.O. to Lucent Transit." See Lucent's Letter of Protest, pg. 2. The Bureau evaluated Lucent's Quote along with other Vendor's {Bidder's} Quotes and deemed Lucent not responsive to mandatory requirements of the Bid Solicitation Section 4.4.5.3 *Use of "No Bid" versus "No Charge" on the State-Supplied Price Sheet*, which states:

If the Vendor {Bidder} is not submitting a price for an item on a price line, the Vendor {Bidder} **must<sup>2</sup>** indicate "No Bid" on the State-Supplied Price Sheet accompanying this Bid Solicitation. If the Vendor {Bidder} will supply an item on a price line free of charge, the Vendor {Bidder} must indicate "No Charge" on the State-Supplied Price Sheet accompanying this Bid Solicitation. **The use of any other identifier may result in the Vendor's {Bidder's} Quote being deemed non-responsive.**

[Emphasis added.]

A review of Lucent's Quote confirms that Lucent indicated "\$0.00" for the Price Lines # 1 and 8. See Lucent's Price Schedule. In its November 11, 2018 response to the Bureau's Request for Clarification, Lucent indicated that its submissions for Price Lines #1 and #8 were meant to be "No Bid." See Lucent's November 11, 2018 email to the Bureau. In I/M/O Protest of Award of On-Line Games Production and Operation Svs. Contract, Bid No. 95-X-20175, the court held that a post-opening commitment to supply an essential missing element for a bid is not a clarification but rather is an "impermissible supplementation ... and flies in the face of our public bidding scheme." 279 N.J. Super. 566 (App. Div. 1995). Accepting Lucent's argument that the information supplied in its Price Schedule for Price Lines #1 and 8 should be read as "No Bid" would constitute an impermissible supplementation. It is also important to note that pursuant to Bid Solicitation Section 1.4.8 *Joint Venture*, companies are permitted to submit Quotes as a

---

<sup>2</sup> **Must** – Denotes that which is a mandatory requirement. Bid Solicitation Section 2.2 *General Definitions*.

Joint Venture. Therefore, there is an option “to put companies together” as requested by Lucent in its protest letter.

It its sixth protest point, Lucent asks “how a small company like Lucent will ever with a state contract and gain experience in the industry if the state is not willing to overlook at the financial barriers and consider the possibilities of receiving the best service an care for its customers.” See Lucent’s Letter of Protest, pg. 2. The State provides for many opportunities for companies to participate in the State’s procurement process. I encourage you to log into **NJSTART** to select any and all commodity codes for procurements you may be interested in submitting a Quote for so that you may receive notification of future bidding opportunities.

Finally, Lucent asserts that Pro-care<sup>3</sup> and Virgo “have had their shares of misconduct and violations.” See Recommendation Report, pg. 2. The Bureau is unaware of any misconduct or violations by Virgo that are relevant to Bid Solicitation #18DPP00248. The CCAU does not have complaints on file against Virgo. Virgo is also not on the State’s debarment list. Pursuant to Bid Solicitation Section 7.2 *Final Blanket P.O. Award*,

Blanket P.O. award[s] will be made with reasonable promptness by written notice to that responsible Vendor(s) {Bidder(s)}, whose Quote(s), conforming to this Bid Solicitation, is (are) most advantageous to the State, price, and other factors considered. Any or all Quotes may be rejected when the State Treasurer or the Director determines that it is in the public interest to do so.

In this situation, the record supports the Bureau’s determination that Virgo satisfied all the requirements of the Bid Solicitation, and that Virgo’s Quote represented the most advantageous offer to the State, price and other factors considered.

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 Quote. However, in light of the findings set forth above, I have no choice but to sustain Bureau’s Notice of Intent to Award. This is my final agency decision on this matter.

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

Sincerely,



Maurice A. Griffin  
Acting Director

c: R. Regan  
A. Davis

---

<sup>3</sup> Note that the Bureau recommended bypassing Pro Care's lower cost Quote due to the ProCare’s history of poor performance. See Recommendation Report, pg. 3.