



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

ELIZABETH MAHER MUOIO
State Treasurer

SHEILA Y. OLIVER
Lt. Governor

MAURICE A. GRIFFIN
Acting Director

July 8, 2020

Via Electronic Mail Only Landmark555@hotmail.com

Robert G. Cooper, CTA, SGREA
Landmark I Appraisal
555 East Main Street, PO Box 121
Chester, New Jersey 07930

Re: I/M/O Bid Solicitation #19DPP00335 Landmark I Appraisal
Protest of Notice of Intent to Award
T2957 - Appraisal Services for NJ Department of Environmental Protection

Dear Mr. Cooper:

This letter is in response to your correspondence of April 27, 2020, on behalf of Landmark I Appraisal (Landmark) which was received by the Division of Purchase and Property's (Division) Hearing Unit. In its letter, Landmark protests the April 20, 2020, Notice of Intent to Award (NOI) issued by the Division's Procurement Bureau (Bureau) for Bid Solicitation #19DPP00335 – T2957 Appraisal Services for New Jersey Department of Environmental Protection (Bid Solicitation).

By way of background, on July 12, 2019, the Bureau issued the Bid Solicitation on behalf of the New Jersey Department of Environmental Protection. Bid Solicitation § 1.1 *Purpose and Intent*. The purpose of the Bid Solicitation was to solicit Quotes for Real Estate Appraisal services from qualified New Jersey Certified General Real Estate Appraisers for the purpose of acquiring properties as open space preservation or flood plain protection by the State of New Jersey. *Ibid*.

On September 13, 2019, the Division's Proposal Review Unit opened thirty-eight (38) Quotes, which were received by the submission deadline of 2:00 pm eastern time. After conducting an initial review of the Quotes received for the compliance with mandatory Quote submission requirements, the Division's Proposal Review Unit forwarded thirty-seven (37) Quotes to the Bureau for further review and evaluation consistent with the requirements of the Bid Solicitation Section 6.7 *Evaluation Criteria*.

On March 25, 2020, after completing the review and evaluation of the submitted Quotes, the Bureau issued a 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 April 20, 2020, the NOI was issued advising all Vendors {Bidders} that it was the State's intent to award Blanket P.O.s consistent with the Bureau's Recommendation Report.

With respect to the Quote submitted by Landmark, the Bureau's Recommendation Report noted the following:

Landmark

The Quote submitted by Landmark was determined by the Bureau to be non-responsive to the mandatory material requirements of the Bid Solicitation, as it failed to provide the required pricing for Price Line 2 in the Northern Region and Price Line 4 in the and Central Region as required by Section 4.4.5.2, *State Supplied Price Sheet Instructions*. Section 4.4.5.2 states, "The Vendor {Bidder} must provide a Firm-Fixed all-inclusive hourly rate for both price lines of a Region in order to be eligible for award of that Region. The Vendor {Bidder} must be willing and able to service the entire Region that is bid. Quotes submitted for less than an entire Region will be rejected and deemed as non-responsive for the respective Region. The Vendor {Bidder} is able to submit a Quote for a single Region, or any combination of Regions." The Bureau notes that the Vendor {Bidder} did not submit a Quote for any other Region.

Subsequently, the Bureau found Landmark to be non-responsive to the mandatory material requirements of the Bid Solicitation and its Quote was not further evaluated.

On April 27, 2020, Landmark sent a protest letter to the Division challenging the Bureau's April 20, 2020 NOI and the determination that its submitted Quote was non-responsive.

In consideration of Landmark's protest, I have reviewed the record of this procurement, including the Bid Solicitation, Landmark's Quote and protest, 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.

The Division's administrative regulations that govern the advertised procurement process establish certain requirements that must be met in order for a Quote to be accepted. Those regulations provide in relevant part that:

- (a) In order to be eligible for consideration for award of contract, the bidder's proposal shall¹ conform to the following requirements or be subject to designation as a non-responsive proposal for non-compliance:

...

6. Include all RFP-required pricing information.

[*N.J.A.C. 17:12-2.2(a)*, emphasis added.]

Among those attachments required to be submitted with the Quote is the State-Supplied Price Sheet discussed in Bid Solicitation Section 4.4.5 *State-Supplied Price Sheet*.

To assist Vendors {Bidders} in completing the State-Supplied Price Sheet, the Bid Solicitation advised in part:

The Vendor {Bidder} must submit its pricing using the State-Supplied Price Sheet accompanying this Bid Solicitation and located on the "Attachments" Tab.

The Vendor {Bidder} must provide a Firm-Fixed all-inclusive hourly rate for both price lines of a Region in order to be eligible for award of that Region. The Vendor {Bidder} must be willing and able to service the entire Region that is bid. Quotes submitted for less than an entire Region will be rejected and deemed as non-responsive for the respective Region.

¹ "Shall – Denotes that which is a mandatory requirement." Bid Solicitation § 2.2 *General Definitions*.

The Vendor {Bidder} is able to submit a Quote for a single Region, or any combination of Regions.

In the event that a Vendor {Bidder} using *NJSTART* to submit a Quote uploads a State-Supplied Price Sheet and completes the “Items” Tab in *NJSTART* (instead of entering a Unit Cost of \$1.00 as instructed), the State-Supplied Price Sheet will govern.

[Bid Solicitation § 4.4.5.2 *State-Supplied Price Sheet Instructions*, emphasis added.]

The review of Landmark’s submitted Quote reveals that the submitted Price Sheet did not include pricing for Price Lines 2 or 4 which were required for a Quote submitted for the North and Central Regions. As indicated above, Bid Solicitation § 4.4.5.2 *State-Supplied Price Sheet Instructions* required that the Vendor {Bidder} submit “a Firm-Fixed all-inclusive hourly rate for both price lines of a Region in order to be eligible for award of that Region.” Emphasis added. Because Landmark did not provide a Firm-Fixed all-inclusive hourly rate for both price lines of a Region as required, the Bureau deemed Landmark’s Quote as non-responsive. Recommendation Report, pg. 4.

In its protest letter Landmark states as follows:

I submit that I followed the instructions...The page [I was] forwarded (included on page 4) shows that I bid Line 1 for Northern and Line 1 for Central Region but after reviewing what I had originally typed (included on page 3) that I saved as an Excel File, it shows that I did fill in lines 1 & 2 for Group 1 – Northern Region only and did not apply to perform work in the Central or Southern Regions which I did not want to do.

I do not know why/how it was changed but did notice the dollar sign was shifted to the left and the numbers to the right and also .00 was added. I am assuming that is because the form had formulas to make these changes which may account for why my price got shifted down to Line 3 of the Central Region which as mentioned I did not want to do work in.

[Landmark’s April 27, 2020 protest letter.]

As shown in the screen shot below, a review of Landmark’s submitted Quote reveals that the Landmark uploaded its Price Sheet as a pdf document, not an excel spreadsheet:

Quote 0003503 - Robert G Cooper

General Items Questions Subcontractors Terms & Conditions **Attachments(24)** Evaluations Preference Reminders Summary

Files

Name	Description	Confidential	Order	Attached By	Attached Date
Business Financials.pdf (view details)		✓	0	Robert Cooper	08/27/2019
Business Reg Form.pdf (view details)		✓	0	Robert Cooper	08/27/2019
Cert of Liability.pdf (view details)		✓	0	Robert Cooper	08/27/2019
State Certification-1.pdf (view details)		✓	0	Robert Cooper	08/27/2019
Cert of Employee-1.pdf (view details)		✓	0	Robert Cooper	08/27/2019
E-O Insurance.pdf (view details)		✓	0	Robert Cooper	08/27/2019
Two Year Chapter 51-Executive Order 117-8.pdf (view details)		✓	0	Robert Cooper	08/27/2019
Vendor Data Sheet-1.pdf (view details)		✓	0	Robert Cooper	08/27/2019
Vendor Overview Form.pdf (view details)		✓	0	Robert Cooper	08/27/2019
Employee Information Report-1.pdf (view details)		✓	0	Robert Cooper	08/27/2019
MacBride Principals Form-1.pdf (view details)		✓	0	Robert Cooper	08/27/2019
Offer and Acceptance-2.pdf (view details)		✓	0	Robert Cooper	08/27/2019
Chapter 271 Politician Contribution-2.pdf (view details)		✓	0	Robert Cooper	08/27/2019
cooperative purchasing form-1.pdf (view details)		✓	0	Robert Cooper	08/27/2019
source disclosure-1.pdf (view details)		✓	0	Robert Cooper	08/27/2019
Subcontractor utilization form-1.pdf (view details)		✓	0	Robert Cooper	08/27/2019
Vendor Data Sheet-2.pdf (view details)		✓	0	Robert Cooper	08/27/2019
1-T2957 Price Schedule-1.pdf (view details)		✓	0	Robert Cooper	08/27/2019
Disclosure of Investigation-2.pdf (view details)		✓	0	Robert Cooper	08/27/2019
Disclosure of Investigation Iran-1.pdf (view details)		✓	0	Robert Cooper	08/27/2019
Lobbying Certification-1.pdf (view details)		✓	0	Robert Cooper	08/27/2019
Ownership Disclosure-2.pdf (view details)		✓	0	Robert Cooper	08/27/2019
Waiver Contracts Supplement to ST and Conditions.pdf (view details)		✓	0	Robert Cooper	08/27/2019
State of NJ Standard Terms-Conditions.pdf (view details)		✓	0	Robert Cooper	08/27/2019

Landmark’s submitted Price Sheet was completed as shown below (with actual pricing redacted).

Bid Solicitation #19DPP00335 Price Sheet T2957 - Appraisal Services - DEP				
Vendor {Bidder} Name:	Robert G. Cooper/Landmark Appraisal			
Business Address:	555 E. Main St, PO Box 121, Chester, NJ 07930			
Instructions:	Refer to Bid Solicitation Section 4.4.5 for Vendor {Bidder} instructions.			
Price Line	Description	Quantity	Unit of Measure	Firm Fixed Unit Price
Group 1 - Northern Region				
1	Appraisal Services Hourly Rate	1	Hour	\$ [REDACTED]
2	Legal Services Hourly Rate	1	Hour	
Group 2 - Central Region				
3	Appraisal Services Hourly Rate	1	Hour	\$ [REDACTED]
4	Legal Services Hourly Rate	1	Hour	
Group 3 - Southern Region				
5	Appraisal Services Hourly Rate	1	Hour	
6	Legal Services Hourly Rate	1	Hour	

Despite the fact that Landmark had intended to submit a Quote price in response to Price Line 2 for the Northern Region, the submitted price sheet reveals that Landmark did not do so.

The **NJSTART** system does not prevent a Vendor {Bidder} from submitting a Quote without all of the required forms and documents completed and attached as mandated by the specifications. The responsibility for ensuring that all necessary forms and other submittals are properly completed and uploaded into **NJSTART** necessarily and appropriately rests solely with the Vendor {Bidder}; as such the Bid Solicitation advised:

The Vendor {Bidder} assumes sole responsibility for the complete effort required in submitting a Quote in response to this Bid Solicitation. No special consideration will be given after Quotes are opened because of a Vendor's {Bidder's} failure to be knowledgeable as to all of the requirements of this Bid Solicitation.

[Bid Solicitation § 1.4.2 *Vendor {Bidder} Responsibility.*]

To assist Vendors {Bidders} in completing and uploading Quotes, as well as to ensure that Quotes have been properly submitted, the Division provides Quick Reference Guides on its website (<https://www.state.nj.us/treasury/purchase/njstart/vendor.shtml#tabs-3>.) One of those guides is entitled "How to Review a Submitted Quote," and provides Vendors {Bidders} with step-by-step instructions and screenshots, on how to review those documents uploaded and submitted as part of a Quote.

A review of the information included as part of Landmark's submitted Quote indicates that the Bureau properly determined that the submitted Quote was non-responsive. 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, as the result of another protest received in response to the Bureau's April 20, 2020 NOI, because of the ambiguity between the Bid Solicitation and the State supplied price sheet I have determined that it is in the public's interest to reject all Quotes submitted and cancel the subject Bid Solicitation. I have remanded this matter back to the Bureau with direction to rescind the Notice of Intent to Award, to cancel this Bid Solicitation and to re-procure the services sought if desired by the using agency. 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. 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. Please monitor the Division's **NJSTART** website for future bidding opportunities for these services.

Sincerely,


Maurice A. Griffin
Acting Director

MAG: RUD

c: R. Regan
K. Popso
M. Dunn