



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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April 24, 2020

Via Electronic Mail bieniakowski_john@comcast.net only

Lt. John P. Bieniakowski, Sr.
Bieniakowski Educational Consultants, LLC
1325 West Crocus Street
South Egg Harbor, New Jersey 08215

Re: I/M/O Bid Solicitation #20DPPP00426 Bieniakowski Educational Consultants, dba BEC
Protest of Notice of Intent to Award
T3100-Specialized Training Services

Dear Lt. Bieniakowski,

This letter is in response to your email on behalf of Bieniakowski Educational Consultants, dba BEC, (Bieniakowski) to the Hearing Unit of the Division of Purchase and Property (Division), dated March 3, 2020. In that letter Bieniakowski protests the Notice of Intent to Award letter (NOI) issued on February 26, 2020, by the Division's Procurement Bureau (Bureau) for Bid Solicitation #20DPPP00426 T3100 - Specialized Training Services (Bid Solicitation).

By way of background, on October 8, 2019, the Bureau issued the Bid Solicitation on behalf of the New Jersey State Police (NJSP), to solicit Quotes for highly specialized training services for State and Local police. See Bid Solicitation Section 1.1 *Purpose and Intent*. Specifically, the Bid Solicitation sought instructor led training courses for State and Local police officers in 37 specialized training categories. By way of example, Bid Solicitation Section 3.1 *Specialized Training Courses* identified certain subject areas for which instructor-led training courses are sought. The intent of this Bid Solicitation is to award 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.

On October 24, 2019, Bieniakowski submitted its Quote through [NJSTART](#). Bieniakowski's submitted Quote was twelve (12) pages and was comprised of the following documents:

- Offer and Acceptance Page
- Ownership Disclosure Form
- Subcontractor Utilization Form
- Disclosure of Investment Activities in Iran Form
- Price Schedule
- Two Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions Form
- Disclosure of Investigations and Other Actions Involving the Bidder Form

- Employee Information Report

No other documents were included with Bieniakowski's submitted Quote.

In conducting its review of the submitted Quote, the Bureau determined that Bieniakowski's Quote was not responsive to the requirements of the Bid Solicitation. Specifically, the Bureau's Recommendation Report noted that:

The Bureau found that the Quote submitted by Bieniakowski was non-responsive based on material deviations to the requirements of the Bid Solicitation. The material deviations are as follows:

Bid Solicitation Section 3.2 *Catalog Requirements*: The Vendor's {Contractor's} submitted catalog of their available course should include the following:

- A. Course name, overview of the course, and the specialized training category under which the course falls; and
- B. A detailed description of the course, including learning objectives.

Bieniakowski failed to provide the Bureau with a course catalog with their available courses.

[See Recommendation Report, pg. 3.]

In its March 3, 2020, protest letter, Bieniakowski states:

As to my argument on being denied, I cite the conditions set in 17:12-3.3(1), i, ii, i.i. (sic) "Specific Grounds for Challenge":

- (1) T3100 Training "Master Blanket", 20DPP00426. The awarded vendors in this bid are not certified, trained, experienced, nor approved by any national certifying body in the instruction certification or credibility of asserting the required approval for the Child Passenger Safety Seat use, installation, development and directed instruction as set by the New Jersey Division of Children and Families policies and Procedures.
- (2) The funding source is of public knowledge from the federal agency, National Traffic Safety Administration to the state, New Jersey Division of Traffic Highway Safety categorized for the New Jersey Division of Children and Families. I find this to be specific funding and not "blanketed service" as it's (sic) application not administration, as will be addressed next.
- (3) B.E.C. has had this contract for 3 prior budgeted years without issue. No other vendor has been successful in the award since that time. If in regards to "failure to submit supporting documents" is the limiting reason, I attest the following under 17:12-3.3 "I assert that the facts of this particular case are sufficient to satisfy and/or conform to the cited prerequisites, notice to award contract pertaining to subject procurement".

In consideration of Bieniakowski's protest, I have reviewed the record of this procurement, including the Bid Solicitation, Bieniakowski's Quote and protest, the relevant statutes, regulations, and case law. I set forth herein the Division's Final Agency Decision.

First, contrary to Bieniakowski's belief as set forth in the protest, the review of the Bid Solicitation reveals that there is no requirement for the Vendors {Bidders} to be certified, trained, experienced nor approved by any National Certifying body with respect to Child Passenger Safety Seat use, installation, etc. Therefore, to the extent that any intended awardee does not maintain a certification related to the use or installation of child safety seats is of no consequence here.

Next, the Bid Solicitation does not refer to a specific funding source, nor was it necessary to list a specific funding source in the Bid Solicitation. To the extent there is a specific funding source to be used by any Using Agency, it is unclear why Bieniakowski challenges the use of federal funds.

Lastly, a review of the current Vendors {Contractors} for G8045 - Specialized Training Services and M2002 - Child Safety Seats, reveals that Bieniakowski is not a Vendor {Contractor} on either Blanket P.O.; therefore, the Division does not have any records on file from Bieniakowski which could demonstrate its ability to complete the scope of work required by the subject Bid Solicitation. Even if Bieniakowski was a Vendor {Contractor} on the Blanket P.O. for G8045 or M2002, previously submitted documents demonstrating a Vendor's {Bidder's} ability to complete the scope of work for a previously awarded Blanket P.O. cannot be relied upon for the subject Bid Solicitation as the State's current needs and requirements may have change, and the Vendor's {Bidder's} ability to complete certain tasks and requirements may similarly change over time.¹ Allowing Bieniakowski to rely upon previously submitted documents to create a technical Quote which meets the requirements of the subject Bid Solicitation would place Bieniakowski in a position of advantage over other Vendors {Bidders} who submitted all of the required information with the 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 Quote. However, in light of the findings set forth above, I 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](http://www.njstart.gov) at www.njstart.gov, the State of New Jersey's eProcurement system.

Sincerely,



Maurice A. Griffin
Acting Director

MAG: RD

c: J. Pastuzyn
L. Spildener
M. Tagliaferri

¹ I note that in some instances the Division is permitted to rely upon previously submitted forms, for example the Ownership Disclosure Form. That is not the case here.