



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR
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June 12, 2020

Via Electronic Mail Only johnnortesano@yahoo.com

Mary Nortesano, President
Giovanni Nortesano, Vice President
JMN Paving and Masonry Inc.
25 Chipper Drive
Kendall Park NJ, 08824

Re: I/M/O Bid Solicitation #20DPP00525 JMN Paving and Masonry Inc.
Protest of Notice of Proposal Rejection
T0777 Snow Plowing and Spreading Services - NJDOT

Dear Ms. Nortesano and Mr. Nortesano:

This letter is in response to your email of June 10, 2010, on behalf of JMN Paving and Masonry Inc. (JMN) to the Division of Purchase and Property's (Division) Hearing Unit. In that correspondence JMN protests the Notice of Proposal Rejection issued by the Division's Proposal Review Unit. The record of this procurement reveals that JMN's Quote was rejected as a late submission. JMN requests that the Division accept a late Quote in response to Bid Solicitation #20DPP00525 - T0777 Snow Plowing and Spreading Services (Bid Solicitation).

By way of background, on April 9, 2020, 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. Ibid.

On May 14, 2020, the Bureau issued Bid Amendment #1 extending the Quote Submission Due Date to 2:00 p.m. eastern time on June 2, 2020. On May 28, 2020 the Bureau issued Bid Amendment #2 responding to the questions posed by potential Vendors {Bidders}. Bid Amendment #2 also extended the Quote Submission Due Date to 2:00 p.m. eastern time on June 9, 2020. On June 9, 2020, the Division's Proposal Review Unit opened 215 Quotes submitted by Quote Submission Due Date to 2:00 p.m. eastern time.

On June 10, 2020, after the Quote submission deadline, JMN wrote the Division's Hearing Unit stating in relevant part:

I am writing to appeal the bid rejection for JMN Paving and Masonry Inc. for the T0777 Snow Plowing and Spreading Services- NJDOT. Bid Solicitation #: 20DPP00525

We received a Letter of Rejection on 6/10/2020 from [the Division's Proposal Review Unit] regarding our State Spreading Bid and are protesting this decision. We strongly believe that there was a miscommunication and misunderstanding on the meaning of the bids "Opening Date" as it was listed on the NJ Start Website and was changed multiple times to 6/9/2020 at 2pm. We were under the assumption that this meant that bid submissions started at 2pm on 6/9. However, when we had logged on at 1:45pm to start uploading and submitting our documents, we were kicked out of the system at 2pm and could no longer finish submitting our paperwork. I then quickly called the state office numerous times to figure out what the issue could have been and was not able to get through. I then emailed [the Division's Procurement Bureau] at 2:19pm to inform him that we have been kicked out of the system, followed by another email at 2:48pm with the attachments that should have been uploaded on the NJ Start Website for bid submission.

Our rejection notice states that we were rejected due to an untimely submission at 2:48pm.

In consideration of JMN's protest, I have reviewed the record of this procurement, including the Bid Solicitation, 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:

- (a) In order to be eligible for consideration for award of contract, the bidder's proposal shall conform to the following requirements or be subject to designation as a non-responsive proposal for non-compliance:
 - ...
 - 2. Be submitted on or before the due date and time and at the place specified in the RFP;

[N.J.A.C. 17:12-2.2(a)(2).]

If the requirements of N.J.A.C. 17:12-2.2 are not met, a Quote must be rejected. These regulations must be stringently enforced to maintain the equal footing of all Vendors {Bidders} and to ensure the integrity of the State's bidding process.

As noted in the protest email, JMN did not log in to submit its Quote until 1:45pm on June 9, 2020 because it mistakenly believed that “bid submissions started at 2pm on 6/9”. Admittedly, as shown on the screen shot below, the Open Bids page on the *NJSTART* website lists the submission date for each item as “Bid Opening Date”.



However, the Bid Solicitation language made clear that Quotes must be received prior to the listed Bid Opening Date.

With respect to the mandatory Quote submission due date and time, the Bid Solicitation advised all potential Vendors {Bidders} of the requirements for proper and timely Quote submission stating:

1.3.2 SUBMISSION OF QUOTES

In order to be considered for award, the Quote must¹ be received by the Procurement Bureau of the Division at the appropriate location by the required time.

Vendors {Bidders} shall submit Quotes electronically through *NJSTART*.

QUOTES NOT RECEIVED PRIOR TO THE QUOTE OPENING DEADLINE SHALL BE REJECTED. THE DATE AND TIME OF THE QUOTE OPENING ARE INDICATED ON THE BID SOLICITATION COVER SHEET AND ON THE “SUMMARY” TAB OF THE BID SOLICITATION WEBPAGE WITHIN *NJSTART*.

IF THE QUOTE OPENING DEADLINE HAS BEEN REVISED, THE NEW QUOTE OPENING DEADLINE SHALL BE SHOWN ON THE POSTED BID AMENDMENT AND ON THE “SUMMARY” TAB OF THE BID SOLICITATION WEBPAGE WITHIN *NJSTART*.

[Emphasis in the original, highlighting added.]

¹ Bid Solicitation Section 2.2 *General Definitions* defines “Must” as “that which is a mandatory requirement.”

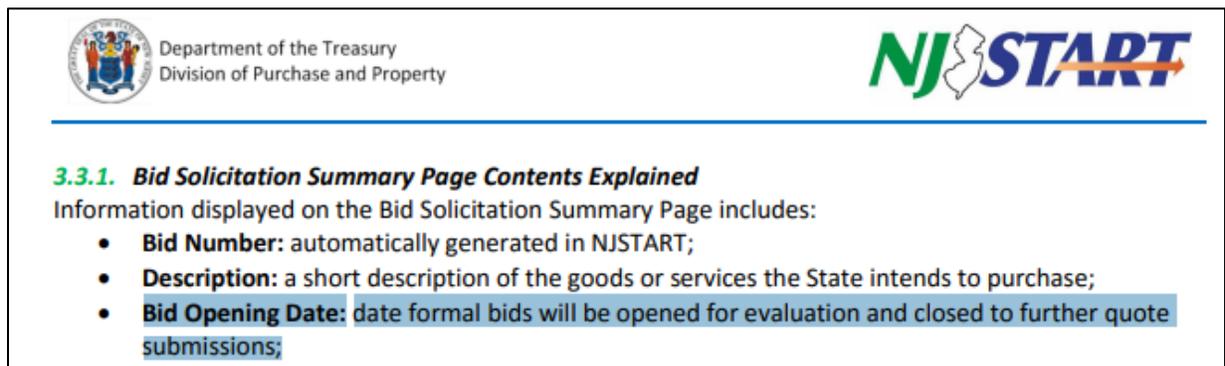
Moreover, the Bid Solicitation advised the potential Vendors {Bidders} to consult the Division's Quick Reference Guides (QRGs) and supporting videos in preparing and submitting a Quote; specifically,

1.3.3 VENDOR {BIDDER} SUPPORT

Vendors {Bidders} are strongly encouraged to visit the [NJSTART Vendor Support Page](#), which contains Quick Reference Guides (QRGs), supporting videos, a glossary of **NJSTART** terms, and helpdesk contact information.

The Vendor {Bidder} should utilize the QRGs before attempting to submit its Quote using the **NJSTART** process. It is the Vendor's {Bidder's} responsibility to ensure that the **NJSTART** Quote and attachments have been properly submitted.

As shown in the screenshot below, the "Submit a Quote" Quick Reference Guide defined the Bid Opening Date as the "date formal bids will be opened for evaluation and closed to further quote submissions."



With the above principals in mind, Vendors {Bidders} are cautioned to allow adequate time to ensure that the Quote is properly submitted. See Bid Solicitation Section 4.2 *Quote Delivery* stating:

A Quote must arrive at the Division in accordance with this Bid Solicitation's instructions within the time frames noted on the Bid Solicitation cover sheet and on the "Summary" page of the Bid Solicitation in **NJSTART**, or as indicated on the posted Bid Amendment if the Quote Opening Date has been changed. Vendors {Bidders} submitting electronic Quotes via **NJSTART** are cautioned to allow adequate time to ensure timely uploads of all Quote documents to mitigate unforeseen delays or issues. State regulation mandates that late Quotes are ineligible for consideration.

Despite JMN's desire to submit a Quote for the subject solicitation, under the provisions set forth above, the statutory procurement laws, and the regulations of the State of New Jersey, the Division is unable to accept JMN's Quote after the Quote submission date has passed. Such acceptance would un-level the Vendor's {Bidder's} playing field as the Division received 215 Quotes by the submission deadline. In light of the findings set forth above, I must unfortunately deny your request for eligibility to participate in the competition for the subject Blanket P.O. This is my final agency decision.

This is an unfortunate situation for the State, as we encourage competition and appreciate your expertise in the field. In the future, I encourage earlier initiation of submissions to ensure timely receipt of Quotes and to allow for any issues that may arise during the electronic submission process. I look forward to your company's continuing interest in doing business with the State of New Jersey.

Sincerely,

Rachel Doobrajh

Rachel U. Doobrajh
Acting Chief Hearing Officer

c: M. Dunn
R. Regan
K. Popso
K. Centofanti
D. Rodriguez
A. Nelson