



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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July 31, 2020

Via Electronic Mail Only ldtky@aol.com

Leslie De Marino
DeMarino Trucking
9 New England Drive
Ramsey, NJ 07446

Re: I/M/O Bid Solicitation #20DPP00525 DeMarino Trucking
Protest of Notice of Intent to Award – Request for Reconsideration
T0777 Snow Plowing and Spreading Services - NJDOT

Dear Ms. De Marino:

This letter is in response to your July 30, 2020, correspondence to the Division of Purchase and Property's (Division) Hearing Unit, submitted on behalf of DeMarino Trucking (DeMarino). In that correspondence, DeMarino requests that the Division reconsider its July 28, 2020 Final Agency Decision in response to DeMarino's July 20, 2020 protest the Notice of Intent to Award (NOI) issued by the Division's Procurement Bureau (Bureau) on July 13, 2020.

By way of background, on April 9, 2020, the 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 Contracts 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, at the closed of the Quote submission due date and time, the Division's Proposal Review Unit opened 215 Quotes, submitted by 197 Vendors {Bidders}. After conducting a review of the Quotes received for compliance with the mandatory requirements for Quote submission, the Division's Proposal Review Unit issued several Notices of Proposal Rejection to those Vendors {Bidders} whose submitted Quote failed to conform to the mandatory administrative requirements for Quote submission.

The remaining Quotes were forwarded to the Bureau for review and evaluation consistent with the requirements of Bid Solicitation Section 6.7 *Evaluation Criteria*, which states in relevant part as follows:

6.7.1.3 OTHER EQUIPMENT

The Division intends to make multiple awards to {Bidders} submitting an All-Inclusive Hourly Rate for other equipment on price lines 313-321. The hourly rates submitted on price lines 313-321 will be evaluated for reasonableness.

After the review and evaluation of all Quotes received in response to the Bid Solicitation was completed, the Bureau completed 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 July 13, 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.¹ With respect to the Quote submitted by DeMarino, the Recommendation Report states in part:

The Quote submitted by Leslie DeMarino (LD) was deemed by the Bureau to be responsive to all mandatory requirements of the Bid Solicitation. The Vendor {Bidder} is in compliance with ownership disclosure, certification of non-involvement in prohibited activities in Iran, business registration, MacBride Principles, disclosure of investigations and actions involving bidder, and source disclosure requirements.

LD submitted a Quote for both Snow Plowing Services and Spreading Services. Additionally, LD submitted a Quote for the following Other Equipment - Class "H" Front End Loader - 4 to 6 CY. The Bureau determined that the Vendor {Bidder} was responsive for all Price Lines submitted as part of its Quote.

The Bureau recommended that DeMarino be awarded a Blanket P.O. for snow plowing and hauling price lines 6, 7, and other equipment for price line 318 for a Class "H" Front End Loader – 4 to 6 CY, for snow section 5220261.

In response to the July 13, 2020 NOI, on July 20, 2020, DeMarino submitted a protest to the Division challenging the intended Blanket P.O. awards. DeMarino alleged:

As per N.J.A.C. 17:12-3-3 De Marino Trucking is protesting bid solicitation # 20DPP00525 T0777 intent to award to Deb Dot Enterprises. Deb Dot bid a Class G loader for section # 5211263 at \$150.00 per hour. De Marino Trucking bid a Class H loader for section # 5211263 at \$142.00 per hour. De Marino Trucking is supplying a bigger loader for less money per hour as such we feel this award should be made to De Marino Trucking.

[De Marino's July 20, 2020, Protest Email.]

On July 23, 2020, the Division issued a final agency decision which concluded "De Marino did not bid on Price Line 317, it cannot be eligible for an award for that Price Line."

¹ The list of Vendors {Bidders} who are recommended to receive a Blanket P.O. award are listed in the Bureau's July 9, 2020 Recommendation Report.

On July 30, 2020, the Division received DeMarino's request for reconsideration which stated:

After looking at my bid, I feel strongly you missed something. I made a bid on that location.

[De Marino's July 30, 2020, Reconsideration Email.]

In consideration of DeMarino's request for reconsideration, I have reviewed the record of this procurement, including the Bid Solicitation, the submitted Quotes, 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.

After further review of the record of this procurement, there is no evidence that the Quote submitted by DeMarino contained a bid on Price Line 317, however it appears that DeMarino submitted two State-Supplied Price Sheets for Snow Plowing and Hauling Services; one included a Quote for Price Line 318 for Snow Section 5220261, and one included a Quote for Price Line 318 for Snow Section 5211263. A screenshot of the pertinent page of DeMarino's submitted State-Supplied Price Sheet for Snow Section 5220261 is shown below:

T0777 - Snow Plowing and Spreading Services - NIDOT State-Supplied Price Sheet Snow Plowing and Hauling Services							
Vendor (Bidder) Name:							
Please reference Section 4.4.5.2 of the Bid Solicitation							
LINE NO	DESCRIPTION	QTY	UNIT	1ST PREFERENCE		2ND PREFERENCE	
				ALL-INCLUSIVE HOURLY RATE: CLASS A AND/OR CLASS B SNOW PLOWING TRUCK - WITH SNOW FLOW	ALL-INCLUSIVE HOURLY RATE: CLASS A AND/OR CLASS B SNOW PLOWING TRUCK WITHOUT SNOW FLOW	ALL-INCLUSIVE HOURLY RATE: SNOW PLOWING SUPERINTENDENT	ALL-INCLUSIVE HOURLY RATE: HAULING ONLY
310	SNOW PLOWING SERVICES - D.O.T. REGION: CENTRAL CREW 327 CLINTON SUBREGION: C1 SNOW SECTION: 5337266 INTERSTATE 76, COESBURY ROAD, LEBANON BORO. TO RATTLESNAKE BRIDGE ROAD, BEDMINSTER (MP 26.78 TO 27.1) NUMBER OF TRUCKS REQUIRED: 7	1	HOURLY RATE				
311	SNOW PLOWING SERVICES - D.O.T. REGION: SOUTH CREW 434 RED LION SUBREGION: S2 SNOW SECTION: 5434262 RT 78 FROM RT 206 (MP 18.6) TO THE 781/2 CIRCLE (MP 26.4) (MP 26.4) TO BURLINGTON/OCEAN COUNTY LINE (MP 33.5) RT 78 FROM 781/2 CIRCLE NUMBER OF TRUCKS REQUIRED: 4	1	HOURLY RATE				
312	SNOW PLOWING SERVICES - D.O.T. REGION: SOUTH CREW 434 RED LION SUBREGION: S2 SNOW SECTION: 5434262 RT 206 FROM RT 30 (MP 6.6) TO ATISON LAKE RANGER STATION MP(7.35) LAKE RANGER STATION (MP 7.35) TO RT 78 (MP 17.66) RT 206 FROM ATISON NUMBER OF TRUCKS REQUIRED: 4	1	HOURLY RATE				
SNOW PLOWING SERVICES/ OTHER EQUIPMENT							
LINE NO	DESCRIPTION	QTY	UNIT	QUANTITY OF TRUCKS AVAILABLE	INCLUDE SNOW SECTION FOR EQUIPMENT (E.G. SNOW SECTION 54263)	ALL-INCLUSIVE HOURLY RATE FOR OTHER EQUIPMENT	DO NOT USE
313	CLASS "C" GRADER - 26,000 TO 27,999 LBS	1	HOURLY RATE				
314	CLASS "D" GRADER - 28,000 LBS AND UP	1	HOURLY RATE				
315	CLASS "E" FRONT END LOADER - 1 1/2 TO 2 CY	1	HOURLY RATE				
316	CLASS "F" FRONT END LOADER - 2 1/2 TO 3 CY	1	HOURLY RATE				
318	CLASS "H" FRONT END LOADER - 4 TO 6 CY	1	HOURLY RATE	\$ -	SNOW SEC 5220261	\$ 142.00	
319	CLASS "I" FRONT END LOADER - 6 1/2 TO 8 CY	1	HOURLY RATE				
320	CLASS "J" FRONT END LOADER - 8 1/2 TO 10 CY	1	HOURLY RATE				
321	CLASS "K" FRONT END LOADER - 10 1/2 CY AND UP	1	HOURLY RATE				

A screenshot of the pertinent page of De Marino's second State-Supplied Price Sheet, submitted for Snow Plowing and Hauling Services for Price Line 318, Snow Section 5211263, is shown below.

T0777 - Snow Plowing and Spreading Services - NJDOT State-Supplied Price Sheet Snow Plowing and Hauling Services							
Vendor (Bidder) Name:							
Please reference Section 4.4.5.2 of the Bid Solicitation							
LINE NO	DESCRIPTION	QTY	UNIT	1ST PREFERENCE ALL-INCLUSIVE HOURLY RATE: CLASS A AND/OR CLASS B SNOW PLOWING TRUCK - WITH SNOW FLOW	2ND PREFERENCE ALL-INCLUSIVE HOURLY RATE: CLASS A AND/OR CLASS B SNOW PLOWING TRUCK WITHOUT SNOW FLOW	ALL-INCLUSIVE HOURLY RATE SNOW PLOWING SUPERINTENDENT	ALL-INCLUSIVE HOURLY RATE HAULING ONLY
310	SNOW PLOWING SERVICES - D.O.T. REGION: CENTRAL CREW 337 CLINTON SUBREGION: C1 SNOW SECTION: 5337266 INTERSTATE 76, OGDENSBURY ROAD, LEBANON BORO. TO RATTLESNAKE BRIDGE ROAD, BEDMINSTER (MP 26.78 TO 27.1)	1	HOURLY RATE				
NUMBER OF TRUCKS REQUIRED: 1							
311	SNOW PLOWING SERVICES - D.O.T. REGION: SOUTH CREW 434 RED LION SUBREGION: S2 SNOW SECTION: 5434368 RT 79 FROM RT 208 (MP 18.6) TO THE 79/72 CIRCLE (MP 26.4) (MP 26.4) TO BURLINGTON/OCEAN COUNTY LINE (MP 33.5)	1	HOURLY RATE				
NUMBER OF TRUCKS REQUIRED: 4							
312	SNOW PLOWING SERVICES - D.O.T. REGION: SOUTH CREW 434 RED LION SUBREGION: S2 SNOW SECTION: 5434362 RT 208 FROM RT 30 (MP 9.8) TO ATSON LAKE RANGER STATION (MP 17.35) LAKE RANGER STATION (MP 17.35) TO RT 79 (MP 17.46)	1	HOURLY RATE				
NUMBER OF TRUCKS REQUIRED: 4							
SNOW PLOWING SERVICES/ OTHER EQUIPMENT							
LINE NO	DESCRIPTION	QTY	UNIT	QUANTITY OF TRUCKS AVAILABLE	INCLUDE SNOW SECTION FOR EQUIPMENT (E.G. SNOW SECTION 5434368)	ALL-INCLUSIVE HOURLY RATE FOR OTHER EQUIPMENT	DO NOT USE
313	CLASS "C" GRADER - 26,899 TO 27,899 LBS	1	HOURLY RATE				
314	CLASS "D" GRADER - 26,899 LBS AND UP	1	HOURLY RATE				
315	CLASS "E" FRONT END LOADER - 1 1/2 TO 2 CY	1	HOURLY RATE				
316	CLASS "F" FRONT END LOADER - 2 1/2 - 2 1/2 CY	1	HOURLY RATE				
317	CLASS "G" FRONT END LOADER - 3 TO 3 1/2 CY	1	RATE				
318	CLASS "H" FRONT END LOADER - 4 TO 6 CY	1	HOURLY RATE	\$	SNOW SEC 5211263	\$ 142.00	
319	CLASS "I" FRONT END LOADER - 6 1/2 CY TO 8 CY	1	RATE				
320	CLASS "J" FRONT END LOADER - 8 1/2 CY TO 18 CY	1	HOURLY RATE				
321	CLASS "K" FRONT END LOADER - 18 1/2 CY AND UP	1	HOURLY RATE				

As noted above, DeMarino received an award for Price Line 318 “Class “H” Front End Loader – 4 to 6 CY” for Snow Section 5220261. See July 9, 2020 Recommendation Report, p. 124. However, it appears that DeMarino’s second, State-Supplied Price Sheet for Price Line 318, Snow Section 5211263 was not considered by the Bureau during the Quote evaluation phase.

Based upon the foregoing, I remand this matter back to the Bureau for further review and evaluation of DeMarino’s submitted Quote for Price Line 318.

Thank you for your company's continuing 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. I encourage you to monitor the New Jersey Department of Transportation’s website and the Division’s [NJSTART](http://www.njstart.gov) eProcurement website for future bidding opportunities for these services related to the current procurement. You should also log into [NJSTART](http://www.njstart.gov) 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. This is my final agency decision with respect to the request for reconsideration submitted by De Marino.

Sincerely,



Maurice A. Griffin
 Acting Director

MAG: TCR

c: M. Dunn
R. Regan
K. Popso
K. Centofanti