



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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July 28, 2020

Via Electronic Mail Only aagomes3@aol.com

Arnold Gomes, Director of Operations
Triple R Truck & Auto Leasing
P.O. Box 1148
Kearny, NJ 07032

Re: I/M/O Bid Solicitation #20DPP00525 Triple R Truck & Auto Leasing
Protest of Notice of Intent to Award
T0777 Snow Plowing and Spreading Services - NJDOT

Dear Mr. Gomes:

This letter is in response to your July 13, 2020, correspondence to the Division of Purchase and Property's (Division) Hearing Unit, submitted on behalf of Triple R Truck & Auto Leasing (Triple R). In that correspondence, Triple R protests the Notice of Intent to Award (NOI) issued by the Division's Procurement Bureau (Bureau) on July 13, 2020. The NOI advised all Vendors {Bidders} of the Division's intent to award a Master Blanket Purchase Orders (Blanket P.O.) to several Vendors {Bidders} who submitted Quote in response to Bid Solicitation #20DPP000525 - T0777 Snow Plowing and Spreading Services - NJDOT (Bid Solicitation).

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 record of this procurement reveals that Triple R failed to submit its Quote by the mandatory Quote submission deadline. On June 11, 2020, the Division's Proposal Review Unit issued a Notice of Proposal Rejection to Triple R advising that the Quote was rejected as "not timely submitted." On June 10, 2020 and June 11, 2020, Triple R submitted a protest to the Division's Hearing Unit requesting that its late Quote be accepted for consideration. In support of the protest Triple R stated in part "Unfortunately the wording of NJSTART mislead me to believing the start time was 6/9/20 at 2pm" and "I am requesting consideration of my technical difficulties and my misunderstanding of the terminology from NJSTART to be able to submit our bid for snow plowing." See Triple R's June 10, 2020 and June 11, 2020, Protests respectively. On June 12, 2020, the Division's Hearing Unit issued the final agency decision stating in part: "[d]espite Triple R'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 Triple R'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." See June 12, 2020 Final Agency Decision, p. 5.

Those Quotes that were responsive to the mandatory requirements for Quote submission were forwarded to the Bureau for review and evaluation consistent with the requirements of Bid Solicitation Section 6.7 *Evaluation Criteria*.

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 a Blanket P.O.s consistent with the Bureau's Recommendation Report.¹

On July 13, 2020, Triple R wrote the Bureau stating:

I'm sorry to bother you, but just found out that we were not awarded the snow contract due to wording of the submission of the contract on account of 30 minutes. Instructions say bid opening date June 9th 2:00 pm so that is what we did, now we find out that is the closing time?? How can this be, totally confusing. We are extremely devastated, as you know we been doing this section for many years and to lose it on account of confusing wording is even greater. Is there anything anyone can do to help us out, or any suggestions that you can offer us?

That email was forwarded to the Division's Hearing Unit and accepted as a protest of the July 13, 2020 NOI.

In consideration of Triple R's protest, 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.

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.

As noted in the Division's June 12, 2020 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.

Further, the Bid Solicitation language made clear that Quotes must be received prior to the listed Bid Opening Date. Specifically, 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 must² 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](#).

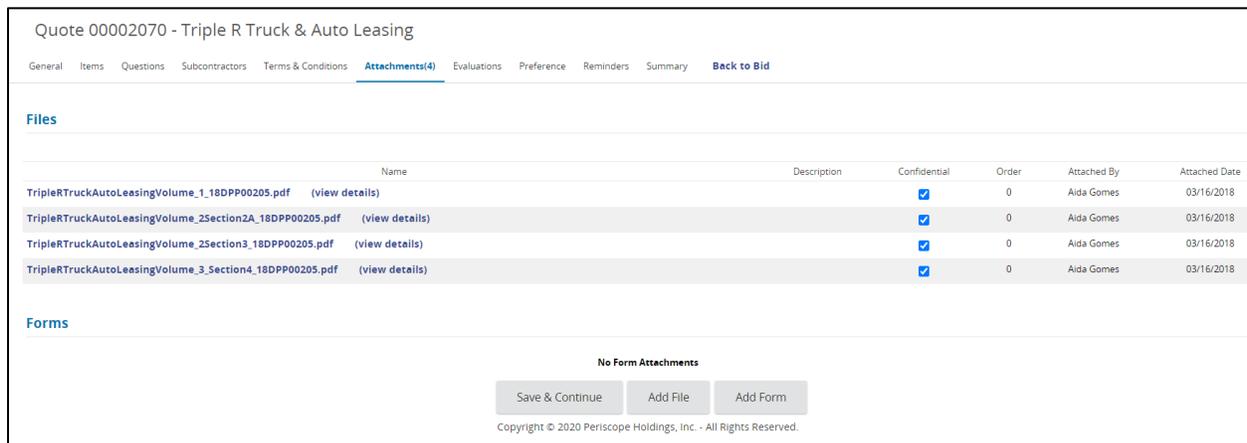
[Emphasis in the original.]

² Bid Solicitation Section 2.2 *General Definitions* defines "Must" as "that which is a mandatory requirement."

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.

I note that Quotes submitted in response to Bid Solicitation #18DPP00205/ T0777 Snow Plowing and Spreading Services – NJDOT, the State’s current snow plowing contract which is scheduled to expire on September 30, 2020, were required to be submitted through the *NJSTART* eProcurement site by 2:00 p.m. eastern time on March 18, 2018. In response to that Bid Solicitation, Triple R prepared and submitted its Quote prior to the listed Quote opening date. In fact, the record of that procurement reveals that Triple R uploaded the documents comprising its Quote on March 16, 2018, two days prior to the Quote Opening deadline.



Name	Description	Confidential	Order	Attached By	Attached Date
TripleRTruckAutoLeasingVolume_1_18DPP00205.pdf (view details)		<input checked="" type="checkbox"/>	0	Aida Gomes	03/16/2018
TripleRTruckAutoLeasingVolume_2Section2A_18DPP00205.pdf (view details)		<input checked="" type="checkbox"/>	0	Aida Gomes	03/16/2018
TripleRTruckAutoLeasingVolume_2Section3_18DPP00205.pdf (view details)		<input checked="" type="checkbox"/>	0	Aida Gomes	03/16/2018
TripleRTruckAutoLeasingVolume_3_Section4_18DPP00205.pdf (view details)		<input checked="" type="checkbox"/>	0	Aida Gomes	03/16/2018

Having timely submitted a Quote in response to Bid Solicitation #18DPP00205, Triple R was awarded a Blanket P.O. Because Triple R’s was able to utilize *NJSTART* to timely submit a Quote for the existing contract, I cannot find that the *NJSTART* wording was misleading and confusing as indicated in Triple R’s June 10, 2020, June 11, 2020 and July 13, 2020 protest submissions.

Despite Triple R’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 Triple R’s Quote after the Quote submission date has passed. Such acceptance would unlevel the Vendor’s {Bidder’s} playing field as the Division received 215 Quotes by the submission deadline.

Based upon the foregoing, I find no reason to disturb the Bureau’s recommendation for award. Accordingly, I sustain the July 13, 2020 Notice of Intent to Award. 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.

Thank you for your company's continuing interest in doing business with the State of New Jersey and for registering your business with **NJSTART** at www.njstart.gov. 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 New Jersey Department of Transportation's, the Division's and the **NJSTART** websites for future bidding opportunities for these services. This is my final agency decision with respect to the protest submitted by Triple R.

Sincerely,



Maurice A. Griffin
Acting Director

MAG: RUD

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