



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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July 8, 2020

Via Electronic Mail Only mickschaible@yahoo.com

Mick Schaible, MAI, SCGRE
Vanguard Appraisal Services
17 Sanford Road
Stockton, New Jersey 08559

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

Dear Mr. Schaible:

This letter is in response to your correspondence of April 23, 2020, on behalf of Vanguard Appraisal Services (Vanguard) which was received by the Division of Purchase and Property's (Division) Hearing Unit. In its letter, Vanguard 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 Vanguard, the Bureau's Recommendation Report noted the following:

Vanguard

The Quote submitted by Vanguard 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 4 in the 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 Vanguard to be non-responsive to the mandatory material requirements of the Bid Solicitation and its Quote was not further evaluated.

On April 27, 2020, Vanguard 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 Vanguard's protest, I have reviewed the record of this procurement, including the Bid Solicitation, Vanguard'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 Vanguard’s submitted Quote reveals that the submitted Price Sheet did not include pricing for Price Line 4 which was required for a Quote submitted for the Central Region. 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 Vanguard did not provide a Firm-Fixed all-inclusive hourly rate for both price lines of a Region as required, the Bureau deemed Vanguard’s Quote as non-responsive. Recommendation Report, pg. 4.

In its protest letter Vanguard states as follows:

I submit that - in correctly following the instructions of the application - I did complete the Bid Solicitation request expeditiously and completely and that my submission was not deficient. I maintain that I did provide the required pricing for Price line 4 in the Central Region as required by Section, 4.4.5.2, *State Supplied Price Sheet Instructions*. I maintain that the State’s application form and its instructions are deficient and or not operating properly, because I assert that I did provide the requested information, and for the anecdotal evidence stated below.

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

As shown in the screen shot below, a review of Vanguard’s submitted Quote reveals that the Vanguard uploaded its Price Sheet as a pdf document:

Quote 00003420 - Vanguard Appraisal Services						
General	Items	Questions	Subcontractors	Terms & Conditions	Attachments(11)	Evaluations Preference Reminders Summary
Files						
Name	Description	Confidential	Order	Attached By	Attached Date	
Price Schedule Revised~1.pdf (view details)		<input checked="" type="checkbox"/>	0	Mick Schaible	07/15/2019	
Lobbying~2.pdf (view details)		<input checked="" type="checkbox"/>	0	Mick Schaible	07/15/2019	
Vendor Bidder Data Sheet~2.pdf (view details)		<input checked="" type="checkbox"/>	0	Mick Schaible	07/15/2019	
Ownership Disclosure Form~1.pdf (view details)		<input checked="" type="checkbox"/>	0	Mick Schaible	07/15/2019	
Cooperative Purchasing Form~1.pdf (view details)		<input checked="" type="checkbox"/>	0	Mick Schaible	07/15/2019	
Vendor Quote Overview~1.pdf (view details)		<input checked="" type="checkbox"/>	0	Mick Schaible	07/15/2019	
Disclosure of Investments In Iran Form~1.pdf (view details)		<input checked="" type="checkbox"/>	0	Mick Schaible	07/15/2019	
Offer and Acceptance.pdf (view details)		<input checked="" type="checkbox"/>	0	Mick Schaible	07/15/2019	
Source Disclosure Certification.pdf (view details)		<input checked="" type="checkbox"/>	0	Mick Schaible	07/15/2019	
Disclosure of Investigations.pdf (view details)		<input checked="" type="checkbox"/>	0	Mick Schaible	07/15/2019	
Subcontractor Utilization Plan.pdf (view details)		<input checked="" type="checkbox"/>	0	Mick Schaible	07/15/2019	
Forms						
No Form Attachments						

Vanguard’s submitted Price Sheet was completed as shown below.

Bid Solicitation #19DPP00335 Price Sheet T2957 - Appraisal Services - DEP				
Vendor {Bidder} Name:	Vanguard Appraisal Services			
Business Address:	7 Sanford Road, Stockton, NJ 08559			
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	
2	Legal Services Hourly Rate	1	Hour	
Group 2 - Central Region				
3	Appraisal Services Hourly Rate	1	Hour	
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 Vanguard may have intended to submit a Quote price in response to Price Line 4 for the Central Region, the submitted price sheet reveals that Vanguard 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 Vanguard'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