



State of New Jersey

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

Via Electronic Mail Only bobby@dsmeyerpaving.com

Douglas Meyer
D.S. Meyer Enterprises, LLC
34 Maple Avenue
Waldwick, NJ 07463

Re: I/M/O Bid Solicitation #20DPP00525 D.S. Meyer Enterprises, LLC
Protest of Notice of Intent to Award
T0777 Snow Plowing and Spreading Services - NJDOT

Dear Mr. Meyer:

This letter is in response to your July 20, 2020, correspondence to the Division of Purchase and Property's (Division) Hearing Unit, submitted on behalf of D.S. Meyer Enterprises, LLC (D.S. Meyer). In that correspondence, D.S. Meyer 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 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 EVALUATION CRITERIA

The following evaluation criteria categories, not necessarily listed in order of significance, will be used to evaluate Quotes received in response to this Bid Solicitation.

- A. Experience of Vendor {Bidder} (Revised Attachment #1): The Vendor {Bidder} must have at least two (2) years of experience performing the specific service (snow plowing and/or spreading) on public roadways in order to be considered for award of that service;
- B. Equipment Preference: The type of Vendor {Bidder} equipment bid on the State-Supplied Price Sheet. See Section 6.7.1, subsections included; and
- C. Price: The Vendor's {Bidder's} pricing provided on the State-Supplied Price Sheet for each price line. See Section 6.7.1, subsections included, for information regarding the pricing evaluation methodology.

6.7.1 EQUIPMENT PREFERENCE AND PRICING EVALUATION

The Division intends to award to one (1) responsive Vendor {Bidder} per price line for Snow Plowing and Hauling Services (excluding *Other Equipment – Loaders and Graders*, as detailed by Section 6.7.1.3), and to one (1) responsive Vendor {Bidder} per price line for Spreading Services.

Vendors {Bidders} will be evaluated based upon the equipment preferences detailed in Sections 6.7.1.1 and 6.7.1.2. If two (2) or more Vendors {Bidders} are offering the same equipment preference for the same price line, then the Division will evaluate and rank based upon pricing, from lowest to highest, as specified below:

A. Snow Plowing and Hauling Services – Pricing Evaluation Methodology

Vendors {Bidders} within the same equipment preference will be ranked based upon the Total Hourly Rate for the respective price line. The Total Hourly Rate will be calculated for each price line as follows:

$(\# \text{ of trucks} \times \text{per truck hourly rate}) + \text{Superintendent hourly rate} = \text{Total Hourly Rate}$

The All-Inclusive Hauling Hourly Rate, if applicable, is not including in the Total Hourly Rate.

B. Spreading Services – Pricing Evaluation Methodology

Vendors {Bidders} within the same equipment preference will be ranked based upon the hourly rate Unit Price for the respective price line.

If two (2) or more Vendors {Bidders} are offering the same equipment preference and are tied on pricing based upon the above pricing evaluation methodologies (both A & B), then the Division will rank based upon the years of experience recorded on Revised Attachment #1, for the respective service in question.

Please refer to the examples listed below in Section 6.7.1.1 and 6.7.1.2 for more information.

6.7.1.1 SNOW PLOWING AND HAULING SERVICES

1st Preference – Vendors {Bidders} supplying all required trucks, that are all a combination of either Class A and/or Class B trucks, all with Vendor {Bidder} provided snow plows; and

2nd Preference – Vendors {Bidders} supplying all required trucks, that are all a combination of either Class A and/or Class B trucks, all without Vendor {Bidder} provided snow plows.

If a Vendor {Bidder} provides unit pricing for both the 1st Preference and 2nd Preference options of a price line, only the 2nd Preference pricing shall be considered and evaluated.

Refer to Bid Solicitation Section 4.4.5.2, *State-Supplied Price Sheets*, including subsections, for information regarding instructions for the State-Supplied Price Sheets.

...

6.7.1.2 SPREADING SERVICES

1st Preference – Vendors {Bidders} supply all of the price line specific, required Class R, Q, and/or P trucks that are all Tailgate Mounted, all with an On-Board Wetting System;

2nd Preference – Vendors {Bidders} supply all of the price line specific, required Class R, Q, and/or P trucks that are all Tailgate Mounted, all without an On-Board Wetting System;

3rd Preference – Vendors {Bidders} supplying all of the price line specific, required Class R, Q and/or P trucks that are all Vbox, all with an On-Board Wetting System;

4th Preference – Vendors {Bidders} supplying all of the price line specific, required Class R, Q and/or P trucks that are all Vbox, all without an On-Board Wetting System;

5th Preference – Vendors {Bidders} supplying all of the price line specific, required Class R, Q and/or P trucks that are all Midbody, all with an On-Board Wetting System; and

6th Preference – Vendors {Bidders} supplying all of the price line specific, required Class R, Q and/or P trucks that are all Midbody, all without an On-Board Wetting System.

Style of Trucks - If the Vendor {Bidder} checks and/or circles more than one (1) of the options, only the least favorable preference option shall be considered and evaluated.

On-Board Wetting System – If the Vendor {Bidder} leaves this column blank, or circles and/or checks both “Yes” and “No”, the State will evaluate the Quote as if it is not providing On-Board Wetting Systems for the respective price line.

Refer to Bid Solicitation Section 4.4.5.2, *State-Supplied Price Sheets*, including subsections, for information regarding instructions for the State-Supplied Price Sheets.

[Emphasis added].

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 20, 2020, the Division received D.S. Meyer’s protest challenging the intended Blanket P.O. awards. By way of summary, D.S. Meyer protests the award of Price Line 324 to AIT Express, LLC (AIT), stating “[i]n the past this yard wanted smaller Vbox spreaders because of it’s (sic) yard configuration and location.” D.S. Meyer Protest, pg 1.

In consideration of D.S. Meyer’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.

The record for this procurement shows that Price Line 324 was awarded to AIT². As is shown below in the relevant portion of AIT’s submitted State-Supplied Price Sheet – Spreading Services, AIT offered the State a “Tailgate Mounted” truck without an “Onboard Wetting System” at a Unit Price of \$198.00. As per Bid Solicitation Section 6.7.1.2 *Spreading Services*, a truck of this type was given 2nd Preference status during evaluation.

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.

² See July 9, 2020 Recommendation Report, Pg. 116.

Copy of Copy of T0777 State-Supplied Price Sheet - Spreading Services-2 (2) - Excel

Circle and/or check YES or NO if you will be providing On-Board Wetting System for all trucks.

YES

A	B	C	D	E	F	G
323	SPREADING SERVICES – D.O.T. REGION: NORTH CREW #: 211 RAMSEY YARD 15 ARROW ROAD, RAMSEY, NJ NUMBER OF TRUCKS REQUIRED: CLASS R - 6	1	HOURLY RATE	Style of trucks that will be provided. Please circle and/or check one (1) option below. Tailgate Mounted <input checked="" type="checkbox"/> Vbox <input type="checkbox"/> MidBody <input type="checkbox"/>	Circle and/or check YES or NO if you will be providing On-Board Wetting System for all trucks. YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	\$ 282.00
324	SPREADING SERVICES – D.O.T. REGION: NORTH CREW #: 212 FORT LEE YARD EDWIN AVENUE, FORT LEE, NJ NUMBER OF TRUCKS REQUIRED: CLASS P - 3	1	HOURLY RATE	Style of trucks that will be provided. Please circle and/or check one (1) option below. Tailgate Mounted <input checked="" type="checkbox"/> Vbox <input checked="" type="checkbox"/> MidBody <input type="checkbox"/>	Circle and/or check YES or NO if you will be providing On-Board Wetting System for all trucks. YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	\$ 198.00
	SPREADING SERVICES – D.O.T. REGION: NORTH CREW #: 213 LODI YARD			Style of trucks that will be provided. Please circle and/or check one (1) option below. Tailgate Mounted <input checked="" type="checkbox"/>	Circle and/or check YES or NO if you will be providing On-Board Wetting System for all trucks. YES <input checked="" type="checkbox"/>	

Conversely, for Price Line 324, D.S. Meyer checked off “Vbox” in the column titled “Style of Trucks”, and “Yes” in the column titled “On-Board Wetting System.” A screenshot of the relevant portion of D.S. Meyer’s State-Supplied Price Sheet – Spreading Services is shown below. As per Bid Solicitation Section 6.7.1.2 *Spreading Services*, a truck of this type was given 3rd Preference status during evaluation.

T0777 - Snow Plowing and Spreading Services - NJDOT State-Supplied Price Sheet Spreading Services						
Vendor {Bidder} Name:			D. S. Meyer Enterprises, LLC			
Please reference Section 4.4.5.2 of the Bid Solicitation						
LINE NO	DESCRIPTION	QTY	UNIT	Style of Trucks	On-Board Wetting System	Unit Price
322	SPREADING SERVICES – D.O.T. REGION: NORTH CREW #: 210 PATERSON YARD PATERSON, NJ NUMBER OF TRUCKS REQUIRED: CLASS R - 9	1	HOURLY RATE	Style of trucks that will be provided. Please circle and/or check one (1) option below. Tailgate Mounted <input type="checkbox"/> Vbox <input type="checkbox"/> MidBody <input type="checkbox"/>	Circle and/or check YES or NO if you will be providing On-Board Wetting System for all trucks. YES <input type="checkbox"/> NO <input type="checkbox"/>	
323	SPREADING SERVICES – D.O.T. REGION: NORTH CREW #: 211 RAMSEY YARD 15 ARROW ROAD, RAMSEY, NJ NUMBER OF TRUCKS REQUIRED: CLASS R - 6	1	HOURLY RATE	Style of trucks that will be provided. Please circle and/or check one (1) option below. Tailgate Mounted <input type="checkbox"/> Vbox <input type="checkbox"/> MidBody <input type="checkbox"/>	Circle and/or check YES or NO if you will be providing On-Board Wetting System for all trucks. YES <input type="checkbox"/> NO <input type="checkbox"/>	
324	SPREADING SERVICES – D.O.T. REGION: NORTH CREW #: 212 FORT LEE YARD EDWIN AVENUE, FORT LEE, NJ NUMBER OF TRUCKS REQUIRED: CLASS P - 3	1	HOURLY RATE	Style of trucks that will be provided. Please circle and/or check one (1) option below. Tailgate Mounted <input type="checkbox"/> Vbox <input checked="" type="checkbox"/> MidBody <input type="checkbox"/>	Circle and/or check YES or NO if you will be providing On-Board Wetting System for all trucks. YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	\$160.00

As is clearly written in Bid Solicitation Section 6.7.1 *Equipment Preference And Pricing Evaluation*³, “Vendors {Bidders} will be evaluated based upon the equipment preferences detailed in Sections 6.7.1.1. and 6.7.1.2.” Accordingly, AIT’s Quote for Price Line 324 was given preference over D.S. Meyer’s Quote for that Price Line. While D.S. Meyers submitted a lower Quote price for this price line than that submitted by AIT, the style of truck and wetting system combination offered by AIT were preferable to those offered by D.S. Meyers. In order to meet their operational needs, NJDOT was involved in the drafting of the specifications for this Bid Solicitation. Regardless of NJDOT’s past vehicle preferences for the location at issue in this Price Line, it was within NJDOT’s discretion to change the preferences for locations in this Bid Solicitation. Here, NJDOT indicate what styles of trucks were preferred for different locations. Therefore, AIT was the proper recipient of the award recommendation for Price Line 324 for this Bid Solicitation.

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 website and the Division’s *NJSTART* eProcurement website for future bidding opportunities for these services. This is my final agency decision with respect to the protest submitted by D.S. Meyer.

Sincerely,



Maurice A. Griffin
Acting Director

MAG: TCR

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

³ These instructions were also clearly written in Bid Solicitation Section 4.4.5.2.2 *Spreading Services Price Sheet Instructions*.