



## State of New Jersey

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DIVISION OF PURCHASE AND PROPERTY  
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July 30, 2020

*Via Electronic Mail Only* [mikebrennanbros@gmail.com](mailto:mikebrennanbros@gmail.com)

Michael Brennan  
Brennan Brothers Contracting, LLC  
28 Maple Street  
Old Bridge, NJ 08857

Re: I/M/O Bid Solicitation #20DPP00525 Brennan Brothers Contracting, LLC  
Protest of Notice of Intent to Award  
T0777 Snow Plowing and Spreading Services - NJDOT

Dear Mr. Brennan:

This letter is in response to your correspondence dated July 16, 2020, to the Division of Purchase and Property's (Division) Hearing Unit, submitted on behalf of Brennan Brothers Contracting, LLC (Brennan Brothers). In that correspondence, Brennan Brothers 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.

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.<sup>1</sup> As it relates to Brennan Brothers, the Recommendation Report stated:

The Quote submitted by Brennan Bros Construction LLC (Brennan Bros) 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. Brennan Bros submitted a Quote for Snow Plowing Services only. The Bureau determined that the Vendor {Bidder} was responsive for all Price Lines submitted as part of its Quote.

Further, the Recommendation Report reveals that the Bureau recommended that Brennan Brothers be awarded price line 172.

On July 17, 2020, the Division received Brennan Brothers' protest dated July 16, 2020, challenging the intended Blanket P.O. award of price line 114 to Joselyn and Jean Contractors. Specifically, Brennan Brothers states:

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<sup>1</sup> 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.

Brennan Brothers Contracting, LLC is protesting the award of Snow Plow Line No. 114 to Joselyn and Jean Contractors. Brennan Brothers Contracting, LLC requested and received the T077 Price Analysis Responsive Bidders Final 07.14.20.xlsx document on July 16, 2020. Upon reviewing it, Brennan Brothers Contracting, LLC was placed in the 2nd preference column when we should have been placed in the 1<sup>st</sup> Preference column, please refer to our Price Sheets. Since no other vendors were listed in the 1<sup>st</sup> preference column Brennan Brothers Contracting, LLC would have won Section 114. Please adjust accordingly.

With the protest, Brennan Brothers included a copy of the price sheet submitted with the Quote.

In consideration of Brennan Brothers' 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.

A review of the Brennan Brothers submitted Quote reveals that Brennan Brothers submitted a Quote for price lines 114, 172 and 202 for snow plowing and hauling services.<sup>2</sup> For price line 114 Brennan Brothers submitted the Quote pricing for the 1<sup>st</sup> preference only. Additionally, in response to the Bureau's request for a Best and Final Offer (BAFO), Brennan Brothers submitted BAFO pricing for price line 114 for the 1<sup>st</sup> preference only.

Additionally, three other Vendors {Bidders} submitted Quotes in response to price line 114.<sup>3</sup> However, a review of the Quote price sheets and the BAFO price sheet submitted by those three Vendors {Bidders} reveals that each only submitted Quote pricing for the second preference.

With respect to the evaluation of Quotes received for snow plowing and hauling services, the Bid Solicitation advised potential Vendors {Bidders} as follows:

#### **6.7.1.1 SNOW PLOWING AND HAULING SERVICES**

*1<sup>st</sup> 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*

*2<sup>nd</sup> 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 1<sup>st</sup> Preference and 2<sup>nd</sup> Preference options of a price line, only the 2<sup>nd</sup> 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.

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<sup>2</sup> Brennan Brothers has not protested the award of price line 202.

<sup>3</sup> Canyon Trucking, Inc., Terco Enterprises, LLC, Joselyn and Jean Contracting, LLC.

[*Emphasis added.*]

Brennan Brothers Quote for price line 114 should have been evaluated as the first preference. However, the record of this procurement reveals that Brennan Brothers' submitted Quote was evaluated as if Brennan Brothers had submitted a Quote for the second preference.

Accordingly, based upon the foregoing, I remand this matter back to the Bureau for review and evaluation of price line 114 consistent with the requirements of the Bid Solicitation. I note that this remand only affects price line 114.

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](http://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 Brennan Brothers.

Sincerely,



Maurice A. Griffin  
Acting Director

MAG: RUD

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