



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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July 30, 2020

Via Electronic Mail Only Pkanady@yahoo.com

Harold Kanady
H.P. Kanady
1887 York Avenue
Williamstown, NJ 08094

Re: I/M/O Bid Solicitation #20DPP00525 H.P. Kanady
Protest of Notice of Intent to Award
T0777 Snow Plowing and Spreading Services - NJDOT

Dear Mr. Kanady:

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 H.P. Kanady (Kanady). In that correspondence, Kanady 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 #20DPP00525 - 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.

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

With respect to the Quote submitted by Kanady, the Recommendation Report states in relevant part:

The Quote submitted by HP Kanady (HP) 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.

...

HP submitted a Quote for both Snow Plowing Services and Spreading Services. The Bureau determined that the Vendor {Bidder} was responsive for all Price Lines submitted as part of its Quote. The Bureau notes that for the submitted Spreading Price Lines HP checked all three (3) Styles of Trucks, as well as both "Yes" and "No" for On-Board Wetting System. The Bureau will evaluate only the least preferable options (MidBody/No On-Board Wetting System) for these Price Lines, in accordance with Bid Solicitation Section 4.4.5.2.2.

[July 9, 2020 Recommendation Report, p. 42-43.]

Despite being responsive to the mandatory requirements for Quote submission, Kanady was not recommended for a Blanket P.O. award.

On July 20, 2020, the Division received Kanady's protest challenging the intended Blanket P.O. awards. By way of summary, Kandy alleges that it should have received awards for Price Lines 252 and 377, based on Kanady's competitive pricing and years of experience in completing these types of services for the State. Furthermore, Kanady requests an explanation as to where its pricing ranks, relative to the

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.

proposed awardees for Price Lines 252 and 377. Lastly, Kanady asks to be considered for the Price Lines on this contract that have not yet been awarded. Kanady Protest, Pg. 1.

In consideration of Kanady’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.

First, the record for this procurement shows that Price Line 252 was awarded to GWP Enterprises, Inc. (GWP).² As is shown below in the relevant portion of GWP’s State-Supplied Price Sheet, GWP offered an “All Inclusive Hourly Rate Class A and/or Class B Snow Plowing Truck Without Plow” of \$225.00 and an “All Inclusive Hourly Rate Snow Plowing Superintendent” of \$90.00.

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	1B PREFERENCE ALL-INCLUSIVE HOURLY RATE: CLASS A AND/OR CLASS B SNOW PLOWING TRUCK WITH SNOW FLOW	2B 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
251	SNOW PLOWING SERVICES - D.O.T. REGION: SOUTH CREW 418 BRIDGEPORT SUBREGION: S1 SNOW SECTION: 5418B3 RT 222 FROM RT 130 IN BRIDGEPORT TWP TO WOOLWICHMARRISON TWP. LINE (MP 2.1 TO MP 8.8) NUMBER OF TRUCKS REQUIRED: 3	1	HOURLY RATE				
252	SNOW PLOWING SERVICES - D.O.T. REGION: SOUTH CREW 417 GLASSBORO SUBREGION: S2 SNOW SECTION: 5417B1 RT 47 FROM RT 322, GLASSBORO TO RT 41 DEPTFORD TWP (MP 82.3 TO MP 88.37) NUMBER OF TRUCKS REQUIRED: 4	1	HOURLY RATE		225.00	90.00	
253	SNOW PLOWING SERVICES - D.O.T. REGION: SOUTH CREW 417 GLASSBORO SUBREGION: S2 SNOW SECTION: 5417B2 RT 42 FROM SICKLERVILLE RD TO U-TURN SIGNAL (MP 0.0 TO MP 6.2) NUMBER OF TRUCKS REQUIRED: 4	1	HOURLY RATE		225.00	90.00	

GWP Enterprises, Inc.
 PO Box 498
 Franklinville, NJ 08322
 856-694-4482
 Fax: 856-728-2895

GWP’s Quote for Price Line 252 was evaluated based on a Total Hourly Rate of \$990.00, in accordance with Bid Solicitation Section 6.7.1, *Equipment Preference and Pricing Evaluation*, Subpart A, which states:

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.

² See July 9, 2020 Recommendation Report, Pg. 113.

GWP's Total Hourly Rate for Price Line 252 was established by taking the rate of \$225.00 per hour and multiplying that number by the four (4) trucks that are required for Price Line 252, and then adding a rate of \$90.00 per hour for GWP's "All Inclusive Hourly Rate for a Snow Plowing Supervisor."

Conversely, as is shown below in the relevant portion of Kanady's State-Supplied Price Sheet, Kanady offered an "All Inclusive Hourly Rate Class A and/or Class B Snow Plowing Truck Without Plow" of \$275.00 and an "All Inclusive Hourly Rate Snow Plowing Superintendent" of \$45.00.

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	UNIT PRICE	ALL INCLUSIVE HOURLY RATE, CLASS A AND/OR CLASS B SNOW PLOWING TRUCK - WITH SNOW PLOW	ALL INCLUSIVE HOURLY RATE, CLASS A AND/OR CLASS B SNOW PLOWING TRUCK WITHOUT SNOW PLOW	ALL INCLUSIVE HOURLY RATE, SNOW PLOWING SUPERINTENDENT
251	SNOW PLOWING SERVICES - D.O.T. REGIONAL SOUTH CREW #10 BRIDGEPORT ALBANY COUNTY, NY SNOW SECTION: 041800 RT 302 FROM RT 158 IN BRIDGEPORT TWP TO WOODLAND/HARRISON TWP, LINE 000.1 TO MP 6.0	1	HOURLY RATE				
	NUMBER OF TRUCKS REQUIRED: 4						
252	SNOW PLOWING SERVICES - D.O.T. REGIONAL SOUTH CREW #17 SALAMONCO ALBANY COUNTY, NY SNOW SECTION: 042701 RT 47 FROM RT 302, SALAMONCO TO RT 41 DEPTFORD TWP (MP 0.0 TO MP 16.3)	1	HOURLY RATE	N/A	\$275.00/100 per hour per truck	\$45.00/100 per hour	
	NUMBER OF TRUCKS REQUIRED: 4						
303	SNOW PLOWING SERVICES - D.O.T. REGIONAL SOUTH CREW #17 SALAMONCO ALBANY COUNTY, NY SNOW SECTION: 042702 RT 42 FROM SALAMONCO RD TO W. TURN SIGNAL, (MP 0.0 TO MP 6.0)	1	HOURLY RATE				
	NUMBER OF TRUCKS REQUIRED: 4						

In accordance with Bid Solicitation Section 6.7.1, *Equipment Preference and Pricing Evaluation*, Subpart A, Kanady's Quote for Price Line 252 was evaluated based on a Total Hourly Rate of \$1,145.00 per hour. Kanady's Total Hourly Rate for Price Line 252 was established by taking the rate of \$275.00 per hour and multiplying that number multiplied by the four (4) trucks that are required for Price Line 252, and then adding a rate of \$45.00 per hour for Kanady's "All Inclusive Hourly Rate for a Snow Plowing Supervisor."

Since both GWP and Kanady submitted Quotes for Price Line 252 as "2nd Preference: All-Inclusive Hourly Rate: Class A and/or Class B Snow Plowing Truck – Without Snow Plow", they were evaluated against one another based upon the Total Hourly Rate for Price Line 252 in accordance with Bid Solicitation Section 6.7.1 *Equipment Preference and Pricing Evaluation*, Subpart A. Thus, GWP received the award for Price Line 252 as its Total Hourly Rate was \$155.00 per hour less than Kanady's Total Hourly Rate.

Second, the record for this procurement shows that Price Line 377 was awarded to Caner Transportation LLC (Caner). As is shown below in the relevant portion of Caner's submitted State-Supplied Price Sheet, Caner offered the State a "Tailgate Mounted" truck with an "Onboard Wetting System" at a Total Hourly Rate of \$342 per hour. As per Bid Solicitation Section 6.7.1.2 *Spreading Services*, a truck of this type was given 1st Preference status during evaluation.

Line No.	Description	Qty	Unit	Style of Trucks	On-Board Wetting System	Unit Price
376	SPREADING SERVICES - D.O.T. REGION: SOUTH CREW #: 413 WEST DEPTFORD YARD GLASSBORO, NJ NUMBER OF TRUCKS REQUIRED: CLASS R - 4	1	HOURLY RATE	Tailgate Mounted <input type="checkbox"/> Vbox <input type="checkbox"/> MidBody <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	\$ 294.00
377	SPREADING SERVICES - D.O.T. REGION: SOUTH CREW #: 417 GLASSBORO YARD GLASSBORO, NJ NUMBER OF TRUCKS REQUIRED: CLASS R - 4	1	HOURLY RATE	Tailgate Mounted <input checked="" type="checkbox"/> Vbox <input type="checkbox"/> MidBody <input type="checkbox"/>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	\$ 342.00
378	SPREADING SERVICES - D.O.T. REGION: SOUTH CREW #: 420 ELMER YARD ELMER, NJ NUMBER OF TRUCKS REQUIRED: CLASS R - 4	1	HOURLY RATE	Tailgate Mounted <input checked="" type="checkbox"/> Vbox <input type="checkbox"/> MidBody <input type="checkbox"/>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	\$ 342.00

Conversely, for Price Line 377, Kanady checked all of the boxes in the column titled “Style of Trucks”; checked all of the boxes in the column titled “On-Board Wetting System”; and, also offered two different hourly prices in the “Unit Price” column of the State-Supplied Price Sheet--one hourly rate with On-Board Wetting and one hourly rate without On-Board Wetting. A screenshot of the relevant portion of Kanady’s State-Supplied Price Sheet is shown below.

LINE NO	DESCRIPTION	QTY	UNIT	Style of Trucks	On-Board Wetting System	Unit Price
376	SPREADING SERVICES - D.O.T. REGION: SOUTH CREW #: 418 BRIDGEPORT YARD LANE, BRIDGEPORT, NJ NUMBER OF TRUCKS REQUIRED: CLASS R - 11	1	HOURLY RATE	Tailgate Mounted <input type="checkbox"/> Vbox <input type="checkbox"/> MidBody <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	
377	SPREADING SERVICES - D.O.T. REGION: SOUTH CREW #: 417 GLASSBORO YARD GLASSBORO, NJ NUMBER OF TRUCKS REQUIRED: CLASS R - 4	1	HOURLY RATE	Tailgate Mounted <input checked="" type="checkbox"/> Vbox <input checked="" type="checkbox"/> MidBody <input checked="" type="checkbox"/>	YES <input checked="" type="checkbox"/> NO <input checked="" type="checkbox"/>	\$220.00/hour with Wetting \$135.00/hour without Wetting
378	SPREADING SERVICES - D.O.T. REGION: SOUTH CREW #: 420 ELMER YARD ELMER, NJ NUMBER OF TRUCKS REQUIRED: CLASS R - 4	1	HOURLY RATE	Tailgate Mounted <input type="checkbox"/> Vbox <input type="checkbox"/> MidBody <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	

The evaluation methodology set forth in Bid Solicitation Section 6.7.1.2 *Spreading Services*³ was clear:

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.]

Since Kanady checked more than one option in the “Style of Trucks” column, Kanady’s Quote for Price Line 377 was evaluated with the least favorable style of truck “MidBody.” Furthermore, since Kanady checked both “Yes” and “No” in the “On-Board Wetting System” column, Kanady was also evaluated as if it was not providing an On-Board Wetting System for Price Line 377. Accordingly, Kanady’s Quote for Price Line 377 was given 6th Preference status during the evaluation.

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

While Kanady's Total Hourly Rate was less than Caner's by \$122.00 per hour, Caner's Quote for Price Line 377 was given preference over Kanady's in accordance with the Bid Solicitation's price sheet instructions and evaluation methodology.

Finally, with respect to Kanady's request to be considered for those lines of this Bid Solicitation that have not yet been awarded, I encourage you to monitor the New Jersey Department of Transportation's website and the Division's *NJSTART* eProcurement website for future bidding opportunities for these services. You should also 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.

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. This is my final agency decision with respect to the protest submitted by Kanady.

Sincerely,



Maurice A. Griffin
Acting Director

MAG: TCR

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