



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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June 12, 2020

Via Electronic Mail Only ozdemirw@comcast.net and avsinsagency@yahoo.com

William Ozdemir
WO Trucking, LLC
6 Liberty Trail
Delran, New Jersey 08075

Re: I/M/O Bid Solicitation #20DPP00525 WO Trucking, LLC
Protest of Notice of Proposal Rejection
T0777 Snow Plowing and Spreading Services - NJDOT

Dear Mr. Ozdemir:

This letter is in response to the July 10, 2020, correspondence to the Division of Purchase and Property's (Division) Hearing Unit, submitted by AVS Insurance Agency, Inc. on behalf of WO Trucking, LLC (WO Trucking). In that correspondence, WO Trucking protests the Notice of Proposal Rejection issued by the Division's Proposal Review Unit. The record of this procurement reveals that WO Trucking's Quote was found to be non-compliant with the mandatory submission requirements. Specifically, WO Trucking's Quote did not include the *Ownership Disclosure Form*.

By way of background, on April 9, 2020, the Division's Procurement Bureau (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 Master Blanket Purchase Orders (Blanket P.O.s) 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, the Division's Proposal Review Unit opened 215 Quotes submitted by Quote Submission Due Date to 2:00 p.m. eastern time. After conducting a review of the Quotes received for compliance with the mandatory requirements for Quote submission, the Division's Proposal Review Unit issued a Notice of Proposal Rejection to WO Trucking.

On June 10, 2020, after the Quote submission deadline, AVS Insurance Agency, Inc. wrote the Division's Hearing Unit on behalf of WO Trucking stating in relevant part:

See attached Ownership Disclosure form that was sent in the original upload pages 3 and 4. This was uploaded on 04/11/2020.
I am sending this on behalf of WO Trucking LLC.

With the protest, AVS Insurance Agency, Inc. included a copy of the *Ownership Disclosure Form*.

In consideration of WO Trucking's protest, I have reviewed the record of this procurement, including the Bid Solicitation, 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.

With respect to the submission of the *Ownership Disclosure Form*, the New Jersey Legislature, in implementing N.J.S.A. 52:25-24.2, mandated that a Vendor {Bidder} must supply its ownership information, prior to or with its Quote, to be eligible to enter into a Blanket P.O. with the State. N.J.S.A. 52:25-24.2 states in pertinent part:

No corporation, partnership, or limited liability company shall be awarded any [Blanket P.O.] nor shall any agreement be entered into for the performance of any work or the furnishing of any materials or supplies, the cost of which is to be paid with or out of any public funds, by the State, or any county, municipality or school district, or any subsidiary or agency of the State, or of any county, municipality or school district, or by any authority, board, or commission which exercises governmental functions, unless prior to the receipt of the bid or accompanying the bid, of said corporation, said partnership, or said limited liability company there is submitted a statement setting forth the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. If one or more such stockholder or partner or member is itself a corporation or partnership or limited liability company, the stockholders holding 10 percent or more of that corporation's stock, or the individual partners owning 10 percent or greater interest in that partnership, or the members owning 10 percent or greater interest in that limited liability company, as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member, exceeding the 10 percent ownership criteria established in this act, has been listed.

Further, 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 shall conform to the following requirements or be subject to designation as a non-responsive proposal for non-compliance:

...

4. Contain all RFP-required certifications, forms, and attachments, completed and signed as required. An RFP may designate certain forms and/or certifications that need not be included in the bidder's proposal but that must be provided by a successful bidder upon request prior to an award of contract;

[N.J.A.C. 17:12-2.2(a), *emphasis added*.]

If the requirements of N.J.S.A. 52:25-24.2 and N.J.A.C. 17:12-2.2 are not met, a Quote must be rejected. These statutes and regulations mandate stringent enforcement to maintain the equal footing of all Vendors {Bidders} and to ensure the integrity of the State's bidding process.

The subject solicitation was comprised of the Bid Solicitation, other documents and mandatory forms which were specifically addressed in Bid Solicitation Section 4.0 *Quote Preparation and Submission* which states in pertinent part:

Vendor's {Bidder's} failure to complete, sign and submit the forms in Section 4.4.1.2 shall be cause to reject its Quote as non-responsive.

[Bid Solicitation § 4.4.1.2 *NJ Standard Bid Solicitation Forms Required With The Quote*.]

Among those forms required to be submitted with the Quote is the *Ownership Disclosure Form* discussed in Bid Solicitation Section 4.4.1.2.1 *Ownership Disclosure Form* which states:

Pursuant to N.J.S.A. 52:25-24.2, in the event the Vendor {Bidder} is a corporation, limited liability company, or partnership, the Vendor {Bidder} must complete an Ownership Disclosure Form.

A current completed Ownership Disclosure Form must be received prior to or accompany the submitted Quote {Proposal}. A Vendor's {Bidder's} failure to submit the completed and signed form with its Quote {Proposal} will result in the rejection of the Quote {Proposal} as non-responsive and preclude the award of a Blanket P.O. {Contract} to said Vendor {Bidder} unless the Division has on file a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the Quote {Proposal} submission deadline for this procurement. If any ownership change has occurred within the last six (6) months, a new Ownership Disclosure Form must be completed, signed and submitted with the Quote {Proposal}.

Vendors {Bidders} using **NJSTART** to submit a Quote {Proposal} shall make the appropriate certification on the "Maintain Terms and Categories" Tab within its profile by checking the applicable box and, if required, completing and attaching the shortened Ownership Disclosure Form. Vendors {Bidders} not using **NJSTART** to submit a Quote {Proposal} must complete the full Ownership Disclosure Form located on the [Division's website](#). This form is also available in [NJSTART \(www.njstart.gov\)](#).

In order to make this process of complying with the legislative requirement easier, the Division provides to the bidding community with an *Ownership Disclosure Form* to be completed, signed and submitted with the Quote. Unfortunately, the record of this procurement reveals that WO Trucking did not upload the *Ownership Disclosure Form* with its submitted Quote. With the submitted Quote, WO Trucking included the two attachment shown in the screenshot below.

Name	Description	Confidential	Order	Attached By	Attached Date
04-11-2020 WO TRUCKING LLC - T0777 - SPREADING BID AND PAPERWOR.pdf (view details)	WO TRUCKING LLC - T0777 SPREADING AND SNOW PLOWING BIDS	<input type="checkbox"/>	0	William Ozdemir	04/11/2020
04-11-2020 WO TRUCKING LLC - T0777 - SNOW PLOWING BIDS-2.pdf (view details)	SNOW PLOWING BID	<input type="checkbox"/>	0	William Ozdemir	04/11/2020

No Form Attachments

Save & Continue Close Window

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The first attachment named “04-11-2020 WO TRUCKING LLC – T0777 – SPREADING BID AND PAPERWOR.pdf” was a nine (9) page attachment which included various portions of the State Supplied Price Sheet. The second attachment named “04-11-2020 WO TRUCKING LLC – T0777 – SNOW PLOWING BIDS ~ 2.pdf” was also a nine (9) page attachment which included various portions of the State Supplied Price Sheet. In fact, attachment 1 and attachment 2 are identical and neither attachment included the *Ownership Disclosure Form*.

As an alternative to the submission of the *Ownership Disclosure Form*, as noted in Bid Solicitation Section 4.4.1.2.1 above, Vendors {Bidders} using *NJSTART* to submit a Quote are required to make the appropriate certification regarding ownership disclosure on the “Maintain Terms and Categories” Tab within its profile. With respect to ownership, Vendors {Bidders} are able to select one of the following descriptors:

Category: Ownership Disclosure

Description: N.J.S.A. 52:25-24.2 requires disclosure of the names and addresses of those individuals, partnerships and/or corporations owning a 10% or greater interest in the bidding entity (“interest owners”). Further, if any of these interest owners is itself a partnership or corporation, you must disclose the names and addresses of the interest owners of that partnership or corporation.

Please select at most one category value

Select

- The bidder is a non-profit entity and is exempt from the ownership disclosure requirement. See Disclosure of Non-Profit Officers and Directors below. (No Ownership Disclosure form is required.)
- There are no individuals, partnerships or corporations with a 10% or greater interest in the bidding entity, therefore the bidder is exempt from the ownership disclosure requirement. (No Ownership Disclosure form is required.)
- Neither statement is applicable. A current, true and complete Statement of Bidder Ownership on the attached form has been or will be uploaded to the vendor profile prior to the submission deadline and is intended to accompany the bidder's submission.

As shown in the screenshot below, WO Trucking did complete the Ownership Disclosure category as required. However, WO Trucking’s response to the Ownership Disclosure category required that it complete and submit the *Ownership Disclosure Form* either with its Quote or attach the form to its Vendor Profile within *NJSTART*.

Category: Ownership Disclosure

Description: N.J.S.A. 52:25-24.2 requires disclosure of the names and addresses of those individuals, partnerships and/or corporations owning a 10% or greater interest in the bidding entity ("interest owners"). Further, if any of these interest owners is itself a partnership or corporation, you must disclose the names and addresses of the interest owners of that partnership or corporation.

Neither statement is applicable. A current, true and complete Statement of Bidder Ownership on the attached form has been or will be uploaded to the vendor profile prior to the submission deadline and is intended to accompany the bidder's submission.

As shown in the screenshot below, WO Trucking did not upload the *Ownership Disclosure Form* to its profile.

The screenshot shows the 'Vendor Profile - WO trucking llc' interface. The 'Attachments' tab is selected, displaying 'Attachments Information' and 'Forms' sections. Both sections state 'No Attachments found for this vendor.' and 'No Form Attachments' respectively. A 'Close Window' button is visible at the bottom.

The **NJSTART** system does not prevent a Vendor {Bidder} from submitting a Quote without all of the required forms and documents attached as mandated by the specifications. The responsibility for ensuring that all necessary forms and other submittals, are uploaded into **NJSTART** necessarily and appropriately rests solely with the Vendor {Bidder}. Bid Solicitation § 1.4.2 *Vendor {Bidder} Responsibility*. Here, unfortunately, WO Trucking submitted a Quote without the *Ownership Disclosure Form* attached. In reviewing a Quote submitted in response to a Bid Solicitation, the Division does not have the power to waive the legislative requirement that a Vendor {Bidder} provide its ownership information prior to or accompanying the Quote submission. Only the New Jersey Legislature can change a requirement it has mandated. Unfortunately, WO Trucking did not comply with any of the options available to it for the submission of ownership information. Accordingly, WO Trucking's Quote was properly rejected by the Division's Proposal Review Unit for failure to submit the mandatory *Ownership Disclosure Form* with its Quote.

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 Proposal. However, in light of the findings set forth above, I have no choice but to deny your request for eligibility to participate in the competition for the subject contract. Should you have any questions regarding the document submitted, I invite you to visit the **NJSTART** Vendor Support Page and review the Division's Quick Reference Guide entitled "How to Review a Submitted Quote," located at <https://www.state.nj.us/treasury/purchase/njstart/pdf/HowtoReviewaSubmittedQuote.pdf>, which provides information and instructions on how to review your company's submitted 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 on this matter.

Sincerely,



Rachel U. Doobrajh
Acting Chief Hearing Officer

c: M. Dunn
R. Regan
K. Popso
K. Centofanti
D. Rodriguez
A. Nelson