



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR

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July 24, 2025

Via Electronic Mail scave@kslaw.com only

Steven Cave, Esq.
King & Spalding LLP
1650 Tysons Blvd
Suite 400
McLean, VA 22102

Re: I/M/O Bid Solicitation #25DPP01143 – 3M Company
Protest of Proposal Rejection
T0790 Firefighter Protective Gear, Equipment and Supplies - Statewide

Dear Mr. Cave:

This final agency decision is in response to the correspondence submitted by or on behalf of 3M Company (3M Company) and received by the Division of Purchase and Property's (Division) Hearing Unit on June 26, 2025. In that correspondence, 3M Company protests the rejection of its Quote by the Division's Proposal Review Unit ("PRU"). 3M Company asserts that it partially uploaded material but was unable to complete the process of uploading and submitting its Quote in a timely manner because of technical difficulties with NJSTART and requests that the Division accept what was uploaded and or subsequently e-mailed to the Division in the evaluation of this procurement.

By way of background, on April 23, 2025, the Division's Procurement Bureau ("Bureau") issued the Bid Solicitation on behalf of the Using Agencies. The purpose of the Bid Solicitation was to solicit "Quotes for various categories of firefighter protective gear, equipment and supplies, which are identified below." Bid Solicitation Sec. 1.1, *Purpose and Intent*. "It is the intent of the State to award a Contract to that responsible Bidder whose Quote, conforming to this Bid Solicitation is most advantageous to the State, price and other factors considered. The State may award any or all price lines." *Id.*

On June 13, 2025, the PRU opened twenty-nine (29) Quotes which were received by the submission deadline of 2:00 pm eastern time. No quote was received through NJSTART from 3M Company however an e-mail was received by the Procurement Specialist with certain quote forms and materials. On June 16, 2025 the PRU sent a Notice of Rejection indicating the Quote was improperly faxed or emailed.

In consideration of 3M Company's protest, I have reviewed the record of this procurement, including the Bid Solicitation, the Quotes received, 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.

DISCUSSION

The Division's administrative regulations that govern the advertised procurement process establish certain requirements that must be met in order for a proposal to be accepted. The Division's governing regulations provide in relevant part "In order to be eligible for consideration for award of contract, the bidder's proposal shall...be submitted on or before the due date and time and at the place specified in the RFP." N.J.A.C. 17:12-2.2(a). If the requirements of N.J.A.C. 17:12-2.2 are not met, a Quote must be rejected. These regulations are strictly enforced to maintain a level playing field for all Bidders and to ensure the integrity of the State's bidding process.

In addition, the Bid Solicitation expressly advises bidders of the requirements for proper submission:

3.1 QUOTE SUBMISSION

In order to be considered for award, the Quote must be received by the Division's Proposal Review Unit, Quote electronically through **NJSTART**, by the required date and time.

The date and time of the Quote opening are indicated on the Bid Solicitation cover sheet and on the "Summary" Tab of the Bid Solicitation webpage within **NJSTART**. If the Quote opening deadline has been revised, the new Quote opening deadline shall be shown on the posted Bid Amendment and on the "Summary" Tab of the Bid Solicitation webpage within **NJSTART**. Quotes not received prior to the Quote opening deadline shall be rejected.

[Emphasis added.]

The Bid Solicitation also advises Bidders to consult with the Division's Quick Reference Guides and supporting material in preparing Quotes for submission:

1. INTRODUCTION AND SUMMARY OF THE BID SOLICITATION

Bidders are strongly encouraged to visit the NJSTART Vendor Support Page, which contains Quick Reference Guides (QRGs), supporting videos, a glossary of **NJSTART** terms, and helpdesk contact information. Bidders should utilize the QRGs before attempting to submit a Quote through **NJSTART**. **It is the Bidder's**

responsibility to ensure that the Quote and attachments have been properly submitted. Inquiries concerning the use of *NJSTART* may be directed to njstart@treas.nj.gov. The Division will not respond to substantive questions related to the Bid Solicitation or any other Contract via this email address.

[Emphasis added.]

Not only does this section encourage Bidders to review the Quick Reference Guides provided by the Division, but it includes a hyperlink to the NJSTART portal containing all of the Quick Reference Guides and videos.

In addition the Bid Solicitation, the Division also posted to the NJSTART web-portal a Bid Solicitation Checklist to guide the Vendors in the submission process. The Checklist states:

THIS CHECKLIST WAS CREATED AS A GUIDE TO ASSIST BIDDERS AND MAY NOT IDENTIFY ALL OF THE DOCUMENTS, FORMS OR OTHER INFORMATION REQUIRED FOR SUBMITTING A COMPLETE AND RESPONSIVE QUOTE. IT IS THE BIDDER'S RESPONSIBILITY TO ENSURE THAT ALL REQUIREMENTS OF THE BID SOLICITATION HAVE BEEN MET.

In addressing the language in the checklist relating to a Protest, the Courts have stated:

These statements on the checklist, taken together with the mandatory language in other parts of the RFP, provided notice it was the bidder's responsibility to ensure all the required forms were submitted.....

In re Bid Solicitation #18DPP00205, No. A-0515-18T3, 2019 N.J. Super. Unpub. LEXIS 1468 (Super. Ct. App. Div. June 26, 2019).

In reviewing the NJSTART's records with respect to 3M Company's Quote, there is no record of a Quote submittal or uploading of documents utilizing the NJSTART on the Quote Opening Date (06/13/2025):

Hi Tom,		
I found no evidence that 3M logged into NJSTART on 6/13/2025.		
LOGIN DATES		
system_user_id	nbr_login_attempts	last_login_date
RBORDAS@MMM.COM	0	2024-08-29 11:55:28.535
RBORDAS@MMM.COM	0	2024-09-09 10:34:18.741
TBIDGROUP	0	2024-10-09 15:07:43.141
RBORDAS@MMM.COM	0	2024-12-17 11:36:36.335
RBORDAS@MMM.COM	0	2024-12-17 12:18:33.588
TBIDGROUP	0	2025-01-08 17:03:41.573
TBIDGROUP	0	2025-01-08 17:17:31.445
RBORDAS@MMM.COM	0	2025-01-23 23:06:54.548
TBIDGROUP	0	2025-02-19 15:32:48.264
TBIDGROUP	0	2025-03-28 09:19:19.746
TBIDGROUP	0	2025-04-14 12:36:39.246
RBORDAS@MMM.COM	0	2025-04-24 14:25:19.983
TBIDGROUP	0	2025-05-08 15:19:11.470
TBIDGROUP	0	2025-05-08 15:23:50.454
TBIDGROUP	0	2025-05-14 13:07:29.424
TBIDGROUP	0	2025-05-28 09:21:50.539
TBIDGROUP	0	2025-06-02 13:13:14.298
TBIDGROUP	0	2025-06-03 09:02:26.643
RBORDAS@MMM.COM	0	2025-06-05 10:34:37.761
RBORDAS@MMM.COM	0	2025-06-05 16:34:45.478
TBIDGROUP	0	2025-06-09 09:36:37.798
RBORDAS@MMM.COM	0	2025-06-17 16:39:13.448
RBORDAS@MMM.COM	0	2025-06-18 17:00:22.047
RBORDAS@MMM.COM	0	2025-06-24 14:50:34.477
RBORDAS@MMM.COM	0	2025-06-26 10:41:16.262

At the close of the 2:00 p.m. submission deadline 3M Company had not submitted its Quote pursuant to the instructions and requirements. It is also noted that at the close of the submission deadline for any given Bid Solicitation, NJSTART automatically removes the submission button / functionality. Uploading documents to the NJSTART portal is one step in the process of submitting a Quote to the State of New Jersey but until and unless the Vendor completes the submission process the PRU is not able to view or consider the uploaded information.

Although the Vendor indicates that it was experiencing technical difficulties submitting information via NJSTART, it is noted that twenty-nine (29) other Vendors successfully uploaded Quotes on or before the Quote submission deadline. The Division cannot waive or relax the submission requirements for one Vendor at the expense of the other compliant Vendors. “Requiring adherence to material specifications maintains a level playing field for all bidders competing for a public contract.” Barrick v. State, 218 N.J. 247, 259 (2014).

CONCLUSION

Based upon the foregoing, I find no reason to disturb the PRU’s June 16, 2025 rejection of 3M Company’s Quote for failing to submit their Quote electronically. This is my final agency decision.

Thank you for your company’s continuing 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.

This is the Division's final agency decision. Pursuant to N.J.A.C. 17:12-3.1, this determination is appealable to the Appellate Division of the Superior Court in accordance with the New Jersey Court Rules (R. 2:4-1) which provide a party 45 days to appeal this final agency decision.

Sincerely,

A handwritten signature in black ink that reads "Cory K. Kestner". The signature is written in a cursive, flowing style.

Cory K. Kestner
Acting Chief Hearing Officer

CKK:DPK

c: K. Thomas
U. Magaya
G. Dales