



State of New Jersey

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

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October 29, 2025

Via Electronic Mail Only to bhendricks@tercollc.com

Brian Hendricks
Terco Enterprises, LLC
833 Limecrest Road
Lafayette, NJ 07848

Re: I/M/O Bid Solicitation #23DPP00860 Terco Enterprises, LLC
Protest of Notice of Intent to Award
T2924 – Snow Plowing Services By Area - NJDOT

Dear Mr. Hendricks:

This final agency decision is in response to your protest letter delivered via electronic mail on behalf of Terco Enterprises, LLC (“Terco”) received by the Division of Purchase and Property’s (“Division”) Hearing Unit on October 22, 2025 (“Protest”). In that letter, Terco protests the Revised Notice of Intent to Award dated October 17, 2025 (“October 17, 2025 NOI”), and the Revised Notice of Intent to Award dated October 20, 2025 (“October 20, 2025 NOI”) issued by the Division’s Procurement Bureau (“Bureau”) stating that they submitted the lowest bid for Maintenance Areas 25, 26, 27, 28, 33, and 47, but were not awarded those lines (Protest Application, page 1) for Bid Solicitation #23DPP00860 – T2924 Snow Plowing Services By Area - NJDOT (“Bid Solicitation”).

By way of background, on March 13, 2024, the Procurement Bureau (“Bureau”) issued the Bid Solicitation on behalf of New Jersey Department of Transportation (“NJDOT”). A Revised Bid Solicitation and Revised State Supplied Price Sheet were issued on May 28, 2024. The purpose of the Bid Solicitation was to solicit Quotes for “strike force” snow plowing services for areas of State interstates and highways under the jurisdiction of the NJDOT. Bid Solicitation Sec. 1.1, *Purpose and Intent*. Bid Solicitation Section 1.2, *Background*, cautioned Bidders that this Bid Solicitation addressed the State’s current requirements. Pursuant to Bid Solicitation Section 3.21, *State Supplied Price Sheet Instructions*, there were Price Lines broken up into 14 maintenance areas, and type of equipment (Truck and Snow Plowing Equipment and/or Trucks Only). Bidders were not required to bid on all areas or types of equipment. Any Price Lines that Bidders submitted bids for they were also required to submit a snow plowing supervisor rate which could not exceed 30% of the plowing rate. Pursuant to Bid Solicitation Section 1.1 *Purpose and Intent*, the State intends to award a maximum of fifty six (56) contract awards per area and/or equipment type as set forth in the chart in Bid Solicitation Section 1.1.

In accordance with Bid Solicitation Section 2.5, *Optional Pre-Quote Conference*, an optional Pre-Quote Conference was held on March 27, 2024, providing all potential Bidders with an overview of the Bid Solicitation and Quote submission procedures and requirements. Representatives from two (2) potential bidding entities attended (Akgun Transportation and NSG Group LLC).

In accordance with Bid Solicitation Section 2.1, *Electronic Question and Answer Period*, an electronic portal enabling the Bureau to receive questions electronically was available to all potential Bidders until 2:00 P.M. Eastern Time on April 12, 2024. Two (2) Bid Amendments were issued for this Bid Solicitation, which provided revisions to the Bid Solicitation and responses to questions received from potential Bidders. A Revised State-Supplied Price Sheet was also issued for this Bid Solicitation.

On June 12, 2024, the Division's Proposal Review Unit ("PRU") opened forty (40) Quotes which were deemed administratively complete by the Proposal Review Unit and released to the Bureau for further review and evaluation.

As part of the responsiveness review, the Bureau determined that numerous Quotes required a Request for Information, in accordance with Bid Solicitation Section 8.4, *Clarification of Quote*, for the Bureau to determine whether or not the Quotes were responsive to mandatory material requirements of the Bid Solicitation as outlined in the Recommendation Report dated May 19, 2025 ("Recommendation Report May 19, 2025") with the resultant determination also contained within the Recommendation Report.

The Bureau determined that the Quotes submitted by Cedar Hill Landscaping, EMA Trucking, M&M Trucking Gudullu LLC, and P. Maio Construction LLC, were non-responsive due to non-compliance with mandatory elements of the Bid Solicitation and therefore ineligible for award. Recommendation Report at pgs. 12-13. The Bureau found that the remaining Quotes met, and complied with, the mandatory requirements for at least one award-eligible Price Line of the Bid Solicitation.

Having completed its evaluation of the Quotes received in response to the Bid Solicitation, on June 6, 2025, the Bureau issued the NOI advising all Bidders that it was the State's intent to award Contracts to the fifteen (15) Bidders set forth in the chart on pages 1-5 of the Recommendation Report May 19, 2025.

As a result of numerous Bidders (including Terco) withdrawing their Quotes for Price Lines, the Bureau issued a Recommendation Report dated October 16, 2025 ("Recommendation Report October 16, 2025") to re-award those Price Lines. The October 17, 2025 NOI was sent to Bidders (along with the Recommendation Report October 16, 2025). Due to some pricing errors contained in the October 17, 2025 NOI, the Bureau issued the October 20, 2025 NOI.

On October 22, 2025, prior to the close of the protest period, Terco submitted a Protest alleging that "for the following Maintenance Areas: 25, 26, 27, 28, 33 and 47, Terco Enterprises, LLC was the lowest bidder, but was not awarded those lines." Protest Application, page 1. Along with their Protest Application, Terco included an attachment showing the awarded pricing and Terco's pricing for the Maintenance Areas listed in their Protest Application ("Protest Attachment").

Although Terco requested an in-person presentation as permitted by N.J.A.C. 17:12-3.3(e), it should be noted that "[t]he Director has sole discretion to determine if an in-person presentation by the protester is necessary to reach an informed decision on the matter(s) of the protest. In-person presentations are fact-finding for the benefit of the Director." Further, "[i]n cases where no in-person

presentation is held, such review of the written record shall, in and of itself, constitute an informal hearing.” N.J.A.C. 17:12-3.3(d). I have reviewed the record of this procurement, including the Bid Solicitation, the Quotes received, the Bureau’s Recommendation Reports, the relevant statutes, regulations, case law, and the protest submitted by Terco. The issues raised in the protest were sufficiently clear such that a review of the record of this procurement 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 submitted by Terco on the written record, as such an in-person hearing is not warranted. I set forth herein the Division’s Final Agency Decision.

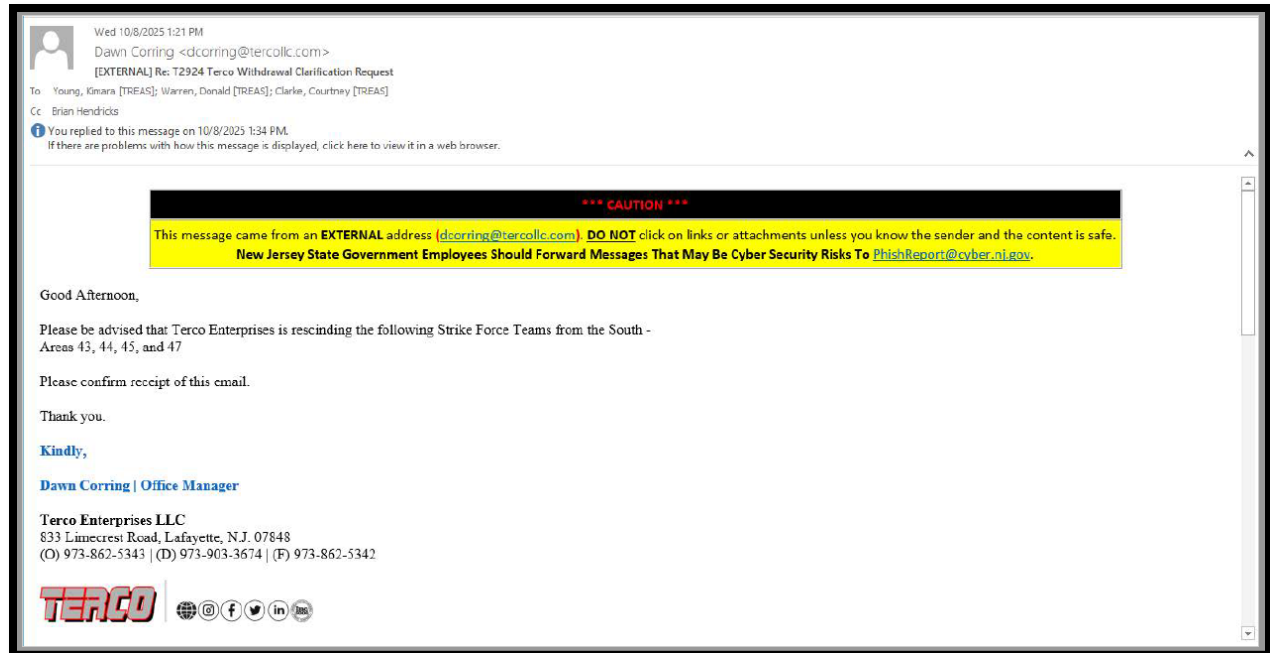
DISCUSSION

The New Jersey Courts have long recognized that the purpose of the public bidding process is to “secure for the public the benefits of unfettered competition.” Meadowbrook Carting Co. v. Borough of Island Heights, 138 N.J. 307, 313 (1994). To that end, the “public bidding statutes exist for the benefit of the taxpayers, not bidders, and should be construed with sole reference to the public good.” Borough of Princeton v. Board of Chosen Freeholders, 169 N.J. 135, 159-60 (1997). The objective of New Jersey’s statutory procurement scheme is “to guard against favoritism, improvidence, extravagance and corruption; their aim is to secure for the public the benefits of unfettered competition.” Barrick v. State of New Jersey, 218 N.J. 247, 258 (2014) (citing Keyes Martin & Co. v. Dir. of Div. of Purchase and Prop., 99 N.J. 244, 256 (1985)).

As set forth in Bid Solicitation Section 3.21, *State-Supplied Price Sheet Instructions*, there are fourteen (14) Maintenance Areas which are further broken down into twenty-eight (28) categories (“Truck and Snow Plowing Equipment” and “Truck Only” for each Maintenance Area) in which Bidders could submit a Quote. There were a total of eighty-four (84) Price Lines on the Revised State Standard Price Sheet. Bidders were advised that they did not need to submit pricing for all line items in order to be considered for award. As stated in this section of the Bid Solicitation, “[t]he Bidder may submit pricing for one (1) or multiple areas, and offer Trucks with Snow Plowing Equipment, and/or Trucks Only Trucks.”. Terco submitted a Quote for all twenty eight (28) categories, and associated Price Lines.

On June 6, 2025, Terco received a Notice of Intent to Award (“June 6, 2025 NOI”) from the Bureau, and Recommendation Report 5/19/2025, which awarded Terco one of the Teams of seven (7) trucks required pursuant to Bid Solicitation Section 4.12, *Snow Plowing Requirements*, and Section 4.12.1, *Snow Plowing Truck Requirements*, for the following Maintenance Areas and categories: Maintenance Area 24 Truck Team #2 (Trucks and Plows); Maintenance Area 24 Truck Team #2 (Trucks Only); Maintenance Area 34 Truck Team #1 (Trucks and Plows); Maintenance Area 34 Truck Team #2 (Trucks Only); Maintenance Area 35 Truck Team #1 (Trucks and Plows); Maintenance Area 38 Truck Team #1 (Trucks and Plows); Maintenance Area 43 Truck Team #1 (Trucks and Plows); Maintenance Area 44 Truck Team #1 (Trucks and Plows); Maintenance Area 47 Truck Team #1 (Trucks and Plows); and Maintenance Area 47 Truck Team #2 (Trucks Only).

On October 8, 2025, Terco submitted the following email to the Bureau:



Quotes were opened on June 12, 2024, for this Bid Solicitation. Bid Solicitation Section 3.5, *Quote Withdrawal Prior to Quote Opening*, allows a Bidder to withdraw its Quote prior to Quote opening and submit a revised Quote, so long as it is received prior to Quote opening. Terco did not avail themselves of that option. Instead, Terco withdrew their Quote for Maintenance Areas 43; 44; 45; and 47¹ on October 8, 2025, more than four (4) months after the June 5, 2025 NOI, and **after** the start of the Winter Season which began on October 1st pursuant to Bid Solicitation Section 4.2, *Contractor Requirements – All Regions*. During the Winter Season, a Contractor must “[b]e available to work seven (7) days a week, 24-hours a day, including State Holidays”. Bid Solicitation Section 4.2 *Contractor Requirements – All Regions*.

Bid Solicitation Section 3.6, *Quote Withdrawal After Quote Opening, but Prior to Contract Award*, does allow for Quote withdrawal after Quote opening and prior to Contract award at the discretion of the Director, and further allows the Division to “take notice of repeated or unusual requests to withdraw by a Bidder” and factor those requests into consideration when evaluating Bidder’s future Quotes. It is very unusual for Terco to withdraw a portion of their Quote approximately one (1) year and four (4) months after Quote Opening; over four (4) months after receiving an award; and after the start of the Winter Season.

When evaluating Quotes received, the Division is charged with ensuring that the Contract is awarded to that **responsible** Bidder whose Quote, conforming to the Bid Solicitation, is most advantageous to the State, price **and other factors considered**. Bid Solicitation Section 1.1, *Purpose and Intent* (Emphasis added.). This language regarding a “responsible Bidder” is reiterated in Bid Solicitation Section 8.15, *Recommendation for Award*, where it states, “the Procurement Bureau will recommend to the Director for award, the responsible Bidder(s) whose Quote(s), conforming to this

¹ In their October 8, 2025 email provided herein, Terco withdrew their Quotes for Maintenance Area 47. It is unclear if Terco realized they withdrew their Quotes for Maintenance Area 47 or if they are trying now to claw back an award that they received and then voluntarily abandoned.

Bid Solicitation, is most advantageous to the State, price and other factors considered”, and again in Bid Solicitation Section 8.16, *Contract Award*, where it states “Contract awards will be made . . . to those responsible Bidders, whose Quotes, conforming to this Bid Solicitation, are most advantageous to the State, price and other factors considered.”

There was no explanation by Terco for the need to withdraw their Quote. Approximately three (3) weeks ago, on October 8, 2025, Terco withdrew their Quote for eight (8) categories of the twenty eight (28) they submitted a Quote for (in June 2024). Two weeks later Terco filed a protest arguing that it should be provided more Areas and their respective price lines through a reaward after giving up Areas with no explanation (including its request for an Area that it just voluntarily gave up three weeks ago). These are not the actions of a responsible bidder, and the State cannot be ensured Terco would be able to perform the Scope of Work required under the Bid Solicitation. Moreover, the State cannot be ensured that Terco would not then withdraw from its already awarded lines to perform the work for the newly awarded Areas. The State is left with the following question: If Terco was unable to perform the work for those eight (8) categories, three (3) weeks ago, what has changed and why would they be able to perform the work required under the Bid Solicitation for the six (6)² categories they are protesting?

As set forth above and in Bid Solicitation sections 1.1 *Purpose and Intent*; 8.15 *Recommendation for Award*; and 8.16 *Contract Award* the Bureau is charged with awarding contracts to responsible bidders, who submit conforming Quotes taking into account “price and other factors considered”. In this case, Terco received an award for ten (10) Maintenance Area categories on June 6, 2025. More than four (4) months after notice of this award, and after the start of the Winter Season, on October 8, 2025, Terco withdrew their Quote for four (4) Maintenance Area categories they had been awarded. This withdrawal represented 40% of the categories awarded Terco in the June 6, 2025 NOI. The Bureau could not be assured that after Terco’s withdrawal on October 8, 2025, they had the capacity, ability and/or interest in servicing additional Maintenance Areas beyond those they retained from the June 6, 2025 NOI after their October 8, 2025 withdrawal. As seen in Bid Solicitation sections 1.1 *Purpose and Intent*; 8.15 *Recommendation for Award*; and 8.16 *Contract Award* price is not the only factor the Bureau must consider when making a Contract award.

In light of the above facts, the Bureau’s decision to bypass Terco for reawards regardless of pricing was reasonable and rational based on Terco’s recent withdrawal from performing work for Areas 43, 44, 45, and 47. Terco was not required to submit a Quote and State-Supplied Price Sheet bidding on every Area and category. If Terco did not have the required equipment and could not supply the necessary equipment to perform the work required for the Areas it bid, it could have bid for the amount of trucks that it had available to perform its awarded lines. If Terco does have sufficient equipment to perform the recently reawarded lines, then it did not act as a responsible bidder when it withdrew from its awarded lines after the start of the Winter Season. Moreover, Terco could have accepted fewer lines for award when the original Notice of Intent to Award letters were provided on June 6, 2025. Whatever the reason for Terco’s withdrawal, the public’s health, safety, and welfare should not be put at risk now that the Winter Season has started.

² The six (6) categories Terco protested include one they voluntarily abandoned in their email to the Bureau on October 8, 2025, namely, Maintenance Area 47.

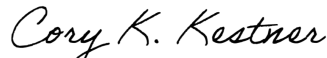
CONCLUSION

Based upon the foregoing, I find no reason to disturb the Bureau's recommendation that the Contract be awarded as outlined in the Recommendation Report dated October 16, 2025. Accordingly, I sustain the October 17, 2025 and October 20, 2025 Notice of Intent to Award. This is my final agency decision.

Thank you for your company's 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,



Cory K. Kestner
Acting Chief Hearing Officer

CKK:CMD

c: C. Clarke
D. Warren
K. Young