



# State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR  
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September 5, 2018

Via Electronic Mail [jhac1964@gmail.com] and USPS Regular Mail

Jeff S. Hackett  
Jeff Hackett & Associates, LLC  
417 Hazen Oxford Road  
Belvidere, NJ 07823

**CORRECTED FINAL AGENCY DECISION**

This decision is being reissued to correct a typographical error.

Re: I/M/O Bid Solicitation #18DPP00205 Jeff Hackett & Associates, LLC  
T0777 Snow Plowing and Spreading Services  
Protest of Notice of Intent to Award

Dear Mr. Hackett:

This letter is in response to your correspondence of August 30, 2018, on behalf of Jeff Hackett & Associates, LLC (Jeff Hackett) to the Division of Purchase and Property's Hearing (Division) Unit. In that correspondence Jeff Hackett protests the August 24, 2018, Notice of Intent to Award (NOI) issued by the Division's Procurement Bureau (Bureau) indicating an intent to award a Master Blanket Purchase Orders (Blanket P.O.s)<sup>1</sup> for Bid Solicitation #18DPP00205 - T0777 Snow Plowing and Spreading Services (Bid Solicitation).

### **BACKGROUND**

By way of background, on January 30, 2018, the Bureau issued the Bid Solicitation on behalf of the New Jersey Department of Transportation (NJDOT), to solicit Quotes from qualified Vendors

<sup>1</sup> For consistency, this final agency decision uses terminology employed by the State of New Jersey's **NJSTART** eProcurement system. For ease of reference, the following is a table which references the **NJSTART** term and the statutory, regulatory and/or legacy term.

<b><i>NJSTART</i> Term</b>	<b>Statutory, Regulatory and/or Legacy Term</b>
Bid Solicitation	Request For Proposal
Bid Amendment	Addendum
Change Order	Contract Amendment
Master Blanket Purchase Order	Contract
Offer and Acceptance Page	Signatory Page
Quote	Proposal
Vendor {Bidder}	Bidder
Vendor {Contractor}	Contractor

{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 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 February 28, 2018, the Bureau issued Bid Amendment #1 responding to the questions posed by potential Vendors {Bidders}. On March 16, 2018, the Division's Proposal Review Unit opened 164 Quotes received through the State's *NJSTART* eProcurement system and/or hardcopy format by the submission deadline of 2:00 pm eastern time. Thirty-two Quotes were automatically rejected by the Proposal Review Unit for failure 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:

The following evaluation criteria categories, not necessarily listed in order of significance, may be used to evaluate Quotes {Proposals} received in response to this Bid Solicitation {RFP}. The evaluation criteria categories may be used to develop more detailed evaluation criteria to be used in the evaluation process.

- A. Experience of firm (Attachment #2): The Vendor's {Bidder's} documented experience in successfully completing Blanket P.O. {Contracts} of a similar size and scope in relation to the work required by this Bid Solicitation {RFP};
- B. Vendor Equipment (Attachment #1): The quantity and type of Vendor {Bidder} trucks and ability to provide equipment; and
- C. Price: The Vendor's {Bidder's} hourly rate. See Section 6.7.1 below.

With respect to the evaluation of the Vendors' {Bidders'} Quote pricing, Bid Solicitation Section 6.7.1 *Vendor's {Bidder's} Price Schedule* states:

The Bureau will utilize a weighted price model. The price model will be date-stamped and entered into the record before Quote {Proposal} opening.

One (1) or multiple awards will be made to the Vendor {Bidder} submitting the lowest hourly rate for each Snow Section and meeting, at a minimum, the criteria for experience and equipment set forth in this Bid Solicitation {RFP}, in the following order:

**Snow Plowing and Hauling Services:**

- 1<sup>st</sup> – Vendors {Bidders} supplying all required Class A trucks with equipment;
- 2<sup>nd</sup> – Vendors {Bidders} supplying all required Class A trucks without equipment;
- 3<sup>rd</sup> – Vendors {Bidders} supplying all required Class B trucks with equipment;

- 4<sup>th</sup> – Vendors {Bidders} supplying all required Class B trucks without equipment;
- 5<sup>th</sup> – Vendors {Bidders} supplying fewer than the required number of Class A trucks with equipment; and
- 6<sup>th</sup> – Vendors {Bidders} supplying fewer than the required number of Class B trucks without equipment.

For example, Vendors {Bidders} submitting responsive Quotes {Proposals} and able to supply all required Class A trucks with Vendor {Bidder} owned equipment, will be awarded a Blanket P.O. {Contract} before the Vendors {Bidders} supplying Class A trucks without equipment.

**Spreading Services:**

- 1<sup>st</sup> – Vendors {Bidders} supplying all required Class R trucks with an on board wetting system;
- 2<sup>nd</sup> – Vendors {Bidders} supplying all required Class R trucks;
- 3<sup>rd</sup> – Vendors {Bidders} supplying all required Class Q trucks with an on board wetting system;
- 4<sup>th</sup> – Vendors {Bidders} supplying all required Class Q trucks;
- 5<sup>th</sup> – Vendors {Bidders} supplying all required Class P trucks with an on board wetting system;
- 6<sup>th</sup> – Vendors {Bidders} supplying all required Class P trucks;
- 7<sup>th</sup> – Vendors {Bidders} supplying V Box trucks with an on board wetting system;
- 8<sup>th</sup> – Vendors {Bidders} supplying V Box trucks;
- 9<sup>th</sup> – Vendors {Bidders} supplying mid-body style trucks with an on board wetting system; and
- 10<sup>th</sup> – Vendors {Bidders} supplying mid-body style trucks.

For example, Vendors {Bidders} submitting responsive Quotes {Proposals} and able to supply all required Class R trucks, with an on board wetting system, will be awarded a Blanket P.O. {Contract} before the Vendors {Bidders} supplying Class R trucks without an on board wetting system.

The evaluation of Quotes received and submission of Quote pricing was conducted in three phases as set forth in Bid Solicitation Section 1.1 *Purpose and Intent* which states:

Award of this Bid Solicitation {RFP} will be conducted in three (3) consecutive phases, as described further below. All phases will continue until all Snow Sections have been awarded. Pricing shall not be released until completion of all phases and the final Notice of Intent to Award has been issued.

This procurement will be bid in three consecutive phases, numbered One, Two and Three. The first Phase will be Phase One (1). In Phase One (1), the State will attempt to award all Snow Sections. To the extent that any Snow Sections remain un-awarded following Phase One (1), the State will request that all Vendors {Bidders} who submitted a Quote {Proposal} to



this Bid Solicitation {RFP} for Phase One (1) submit a Phase Two (s) price sheet addressing any Snow Sections that remain un-awarded that the Vendor {Bidder} is interested in. The State will attempt to award all remaining Snow Sections in Phase Two (2) based on the Phase Two price sheets received. In the event that any Snow Sections remain un-awarded after Phase Two (2) is completed, the State will request that all Vendors {Bidders} submit a Phase Three (3) price sheet, addressing any Snow Sections that remain un-awarded, that the Vendor {Bidder} is interested in.

Under no circumstances shall any Vendor {Bidder}, when submitting a Phase Two (2) or Phase Three (3) price sheet after being requested to do so by the State, submit any supplemental or additional information regarding any other aspects of its previously-submitted bid. During Phase Two and Phase Three, the State will only consider the price sheets, and will not consider any additional or supplemental information or documents.

1. **Phase One (1)** – will apply to all Vendors {Bidders} that have submitted a responsive Quote {Proposal};
2. **Phase Two (2)** – will apply to all Snow Sections not awarded and will occur after the Notice of Intent to Award has been issued for Phase One (1) and prior to the issuance of the final Notice of Intent to Award. All Vendors {Bidders} that have submitted a responsive Quote {Proposal}, in response to this Bid Solicitation {RFP}, will be eligible to participate during Phase Two (2); and
3. **Phase Three (3)** – will apply to Snow Sections not awarded and will occur after the Notice of Intent to Award has been issued for Phase Two (2) and prior to the issuance of the final Notice of Intent to Award. All Vendors {Bidders} that have submitted a responsive Quote {Proposal}, in response to this Bid Solicitation {RFP}, will be eligible to participate during Phase Three (3).

In other words, only those Vendors {Bidders} whose original submitted Quotes were responsive to the requirements of the Bid Solicitation would be able to participate in, and submit pricing for Phase 2 and Phase 3.

In accordance with the procedure set forth in Bid Solicitation Section 1.1 *Purpose and Intent*, after the review and evaluation of all Quotes received in response to Bid Solicitation Phase 1 was completed, on June 5, 2018, the Bureau issued a preliminary notice. That preliminary notice advised the Vendors {Bidders} which snow plowing sections would be awarded based upon the Phase 1 submitted Quotes. The preliminary notice also provided Vendors {Bidders} the opportunity to withdraw a submitted Quote or a preliminarily awarded price line. Four Vendors {Bidders} withdraw a submitted Quotes for some or all of the snow plowing section originally submitted during Phase 1. Thereafter, the Bureau commenced Phase 2 to solicit Quote pricing for those snow plowing sections for which no responsive Quotes had been received. On June 11, 2018, requests for Phase 2 pricing were sent to all Vendors {Bidders} determined to be responsive prior to Phase 1. Phase 2 Quote pricing submission were due to the Bureau on June 18, 2018 at 2:00 p.m.

After the review and evaluation of all Quotes received in response to the Bid Solicitation Phase 2 was completed, on June 25, 2018, the Bureau issued a second preliminary notice. That second preliminary notice advised the Vendors {Bidders} which snow plowing sections would be awarded based upon the Phase 1 and Phase 2 submitted Quotes. The second preliminary notice also provided Vendors {Bidders} the opportunity to withdraw a submitted Quote or a preliminarily awarded price line. Thereafter, the Bureau commenced Phase 3 to solicit Quote pricing for those snow plowing sections for which no responsive Quotes had been received in either Phase 1 or Phase 2. Requests for Phase 3 pricing were sent to all responsive Vendors {Bidders} on June 26, 2018 with a Phase 3 Quote pricing submission due date of June 28, 2018 at 2:00 p.m.

After the review and evaluation of all Quotes received in response to the Bid Solicitation Phase 3 was completed, on July 2, 2018, the Bureau issued a third preliminary notice. That third preliminary notice advised the Vendors {Bidders} which snow plowing sections would be awarded based upon the Phase 1, Phase 2 and Phase 3 submitted Quotes. The third preliminary notice also provided Vendors {Bidders} the opportunity to withdraw a submitted a Quote or a preliminarily awarded price line.

Thereafter, on August 22, 2018, the Bureau issued 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.<sup>2</sup> On August 24, 2018, 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.

On August 30, 2018, the Division received Jeff Hackett's protest challenging the intended Blanket P.O. award of price lines 35, 37 and 94. Specifically, Jeff Hackett states:

I would like to protest the following awarded sections of the above mentioned bid. Pierson Landscaping, Line item # 94, snow section 5230264. There is no signature (handwritten nor electronic) on their bid, see the enclosed copy of their offer & acceptance page.

I would also like to protest line items #35, snow section # 5218261 & line item #37, snow section # 5218263. These 2 sections were awarded to AZ Trucking because they were the low bidder. On line item #35 they were \$170.00 compared to our \$184.97 & on line item #37 they were \$170.00 compared to our \$174.97. I would like to protest this because we have done these 2 routes for several contract terms very successfully (which can be verified by the yard supervisor [ ]). We were previously told at the contractors meeting that these awards were going to be made on past performance as well as pricing. On line #35 there is a difference of \$14.97 & on line #37 there is a difference of only \$4.97. I feel that we should have been at least awarded Line item #37 if not both of these 2 sections based on this criteria.

In consideration of Jeff Hackett'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.

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<sup>2</sup> The list of Vendors {Contractors} who are recommended to receive Blanket P.O. awards are listed in the attachment to the Bureau's August 22, 2018 Recommendation Report.



## DISCUSSION

First, Jeff Hackett protests the award of price lines 35 and 37 to AZ Trucking, LLC (AZ Trucking) stating that despite the fact that its submitted Quote pricing was higher, it should have been awarded the price lines because it has had these routes for several years and believed that the Blanket P.O. awards would be made based upon price and past performance.

As noted above, the Bid Solicitation advised all potential Vendors {Bidders} that the evaluation and award of the snow plowing and hauling price lines would be made as follows:

The Bureau will utilize a weighted price model. The price model will be date-stamped and entered into the record before Quote {Proposal} opening.

One (1) or multiple awards will be made to the Vendor {Bidder} submitting the lowest hourly rate for each Snow Section and meeting, at a minimum, the criteria for experience and equipment set forth in this Bid Solicitation {RFP}, in the following order:

### **Snow Plowing and Hauling Services:**

- 1<sup>st</sup> – Vendors {Bidders} supplying all required Class A trucks with equipment;
- 2<sup>nd</sup> – Vendors {Bidders} supplying all required Class A trucks without equipment;
- 3<sup>rd</sup> – Vendors {Bidders} supplying all required Class B trucks with equipment;
- 4<sup>th</sup> – Vendors {Bidders} supplying all required Class B trucks without equipment;
- 5<sup>th</sup> – Vendors {Bidders} supplying fewer than the required number of Class A trucks with equipment; and
- 6<sup>th</sup> – Vendors {Bidders} supplying fewer than the required number of Class B trucks without equipment.

For example, Vendors {Bidders} submitting responsive Quotes {Proposals} and able to supply all required Class A trucks with Vendor {Bidder} owned equipment, will be awarded a Blanket P.O. {Contract} before the Vendors {Bidders} supplying Class A trucks without equipment.

[Bid Solicitation Section 6.7.1 *Vendor's {Bidder's} Price Schedule.*]

With respect to experience, Bid Solicitation Section 3.2 *Vendor {Contractor} Requirements*, sets forth the minimum experience for the Vendors {Contractors} stating “the Vendor {Contractor} shall possess, at a minimum, two (2) years’ experience performing snow plowing or spreading services on public roadways.” Both Jeff Hackett and AZ Trucking submitted Attachment #2 – *Vendor {Bidder} Experience Form* indicating that each has required minimum years of experience in snow plowing. Further, as to past performance, neither Jeff Hackett nor AZ Trucking has had any complaints filed against them with the Division’s Contract Compliance and Audit Unit, and neither Vendor {Bidder} is listed on the State’s debarment list.

For price lines 35 and 37 specifically, both Jeff Hackett and AZ Trucking proposed to supply the State with all Class A Trucks, in the number required to perform the work for the specified snow plow section. Based upon the information contained in the submitted Quotes, and consistent with the evaluation criteria set forth in Bid Solicitation Section 6.7.1 *Vendor's {Bidder's} Price Schedule*, the Bureau recommended an award of price lines 35 and 37 to AZ Trucking stating:

Price Line #35 - the following Vendors {Bidders} submitted a Quote for this price line. Although both Vendors {Bidders} submitted a responsive Quote, the Quote submitted by AZ Trucking LLC (A Z Trucking) is considered to be the overall lowest cost responsive, responsible Quote, most advantageous to the State price and other factors considered, and therefore, recommended for award of this price line.

AZ Trucking; and  
Jeff Hackett & Associates (Hackett).

...

Price Line #37 - the following Vendors {Bidders} submitted a Quote for this price line. Although both Vendors {Bidders} submitted a responsive Quote, the Quote submitted by AZ Trucking LLC (AZ Trucking) is considered to be the overall lowest cost responsive, responsible Quote, most advantageous to the State price and other factors considered, and therefore, recommended for award of this price line.

AZ Trucking; and  
Jeff Hackett & Associates (Hackett).

[Recommendation Report, p. 22.]

The Bureau's recommendation for award conforms to the requirements of the Bid Solicitation and the applicable law.

Second, as to the intended Blanket P.O. award to Pierson Landscaping and Design, LLC (Pierson), Jeff Hackett states that there is no signature on the *Offer and Acceptance Page* submitted by Pierson. Bid Solicitation Section 4.4.1.1 *Offer and Acceptance Page {Signatory Page}* states the following regarding the submission of the *Offer and Acceptance Page*:


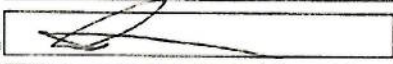
The Vendor {Bidder} shall complete and submit the Offer and Acceptance Page {Signatory Page} accompanying this Bid Solicitation {RFP} prior to the initiation of negotiation. The Vendor {Bidder} should submit the Offer and Acceptance Page {Signatory Page} with the Quote {Proposal}. All information requested on the Offer and Acceptance Page {Signatory Page} must be submitted.

If the Offer and Acceptance Page {Signatory Page} is not submitted with the Quote {Proposal} or is incomplete, the State will require the Vendor {Bidder} to submit the Offer and Acceptance Page {Signatory Page}. If the Vendor {Bidder} fails to comply with the requirement within seven (7) business days of the demand, the State may deem the Quote {Proposal} non-responsive.

The Offer and Acceptance Page {Signatory Page} must be signed by an authorized representative of the Vendor {Bidder}. If the Vendor {Bidder} is a limited partnership, the Offer and Acceptance Page {Signatory Page} must be signed by a general partner. If the Vendor {Bidder} is a joint venture, the Offer and Acceptance Page {Signatory Page} must be signed by a principal of each party to the joint venture.

[Emphasis added.]

Pierson did submit the *Offer and Acceptance Page* with its Quote; however, as noted by Jeff Hackett in the protest, the *Offer and Acceptance Page* was not signed. As permitted by the Bid Solicitation, on June 28, 2018, the Bureau requested and received the signed *Offer and Acceptance Page* from Pierson:

	<b>OFFER AND ACCEPTANCE</b>		State of New Jersey Department of the Treasury Division of Purchase and Property 33 West State Street, P.O. Box 230 Trenton, New Jersey 08625-0230	
	Bid Solicitation #:	18DPP00205		
Bid Solicitation Title:	Snow Plowing and Spreading Services - NJDOT			
Blanket P.O. (Contract) Term:	See Bid Solicitation Section 5.2	<input type="checkbox"/> Open to Cooperative Purchasing		
<b>OFFER (To be completed by the Vendor (Bidder))</b>				
<b>TO THE STATE OF NEW JERSEY:</b> The Undersigned hereby offers and agrees to furnish the goods, products, or services in compliance with all terms of this Master Blanket Purchase Order (Blanket P.O.) (Contract) as defined in Section 2.0 of the Bid Solicitation.				
Vendor (Bidder):	Pierson Landscaping & Design LLC	Title:	Member	
Address:	343A US Highway 206	E-Mail Address:	art@piersonlandscaping.com	
City, State, ZIP:	Branchville, NJ 07826	Phone Number:	973-948-7295	
Authorized Signature: <small>(Electronic Signature Acceptable)</small>		Fax Number:	973-948-3972	
Printed Name:	Arthur J. Pierson	FEIN:		

Accordingly, the recommended Blanket P.O. award to Pierson for price line 94 conforms to the requirements of the Bid Solicitation and the applicable law.



**CONCLUSION**

Based upon the foregoing, I find no reason to disturb the Bureau's recommendation. Accordingly, I sustain the August 24, 2018 Notice of Intent to Award. This is my final agency decision with respect to the protest submitted by Jeff Hackett.

Thank you for your company's continuing interest in doing business with the State of New Jersey and for registering your company with **NJSTART** at [www.njstart.gov](http://www.njstart.gov), the State of New Jersey's eProcurement system. 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, the Division's and the **NJSTART** websites for future bidding opportunities for these services.

Sincerely,



Maurice A. Griffin  
Acting Director

MAG: RUD

c: P. Michaels  
L. Spildener  
M. Groninger