



State of New Jersey

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

Via Electronic Mail [Yoanka1971@hotmail.com] and USPS Regular Mail

Yoanka Aira
Majestic Leasing LLC
P.O. Box 1089
Sayreville, NJ 08871

Re: I/M/O Bid Solicitation #18DPP00205 Majestic Leasing LLC
T0777 Snow Plowing and Spreading Services
Protest of Notice of Intent to Award

Dear Ms. Aira:

This letter is in response to your correspondence of August 24, 2018, on behalf of Majestic Leasing LLC (Majestic Leasing) to the Division of Purchase and Property's (Division) Hearing Unit. In that correspondence Majestic Leasing 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)¹ to several Vendors {Bidders} for Bid Solicitation #18DPP00205 - T0777 Snow Plowing and Spreading Services (Bid Solicitation). Noting the Division's June 5, 2018 Phase One preliminary notice of intent to award indicated Majestic Leasing and Prieto Enterprises LLC (Prieto Enterprises) were intended awardees on price line 333, Majestic Leasing protests the Division's August 24, 2018 NOI which only intends to award line number 333 to Prieto Enterprises.

¹ 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.

NJSTART Term	Statutory, Regulatory and/or Legacy Term
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

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 {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:

.....

Spreading Services:

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

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.

Vendors {Bidders} were required to provide information within their Quote regarding their equipment and pricing such that the award methodology established in Bid Solicitation section 6.7.1 *Vendor's {Bidder's} Price Schedule* could be applied. First, section 4.4.4.2 of the Bid Solicitation, titled *Price Sheet/Schedule Attachment Instructions* advised all Vendors {Bidders} that all pricing must be submitted using the State-supplied price sheet/schedule accompanying the Bid Solicitation. The State-supplied price sheet/schedule advised Vendors {Bidders} of the region, crew number, crew location, and the number and class of trucks required to cover the Snow Section. Accordingly, in relevant part, the State-supplied price schedule for price line 333 was as follows:

LINE NO	DESCRIPTION	QTY	UNIT	DO NOT USE	ALL-INCLUSIVE HOURLY RATE CLASS R TRUCK	ALL-INCLUSIVE HOURLY RATE CLASS Q TRUCK	ALL-INCLUSIVE HOURLY RATE CLASS P TRUCK
333	SPREADING SERVICES - D.O.T. REGION:CENTRAL CREW #: 311 COLLEGE FARM YARD COLLEGE FARM ROAD, NORTH BRUNSWICK, NJ NUMBER OF TRUCKS REQUIRED: 6 CLASS R	1	HOUR				

Second, Vendors {Bidders} were required to submit Bid Solicitation Attachment #1 – Vendor Equipment Form, which detailed the equipment the Vendor {Bidder} was proposing for the hourly rate set forth on the State-supplied price sheet/schedule. Bid Solicitation § 4.4.3 *Submittals*.

Review of the record reflects Majestic Leasing submitted a Quote via [NJSTART](#) on March 14, 2018. With respect to price line 333,² Majestic Leasing's Quote reflected it proposed class R trucks at an hourly rate of \$195 per hour as shown:

² Majestic Leasing also submitted a Quote on line 348, which is not relevant to the present protest.

333	SPREADING SERVICES - D.O.T. REGION:CENTRAL CREW #: 311 COLLEGE FARM YARD COLLEGE FARM ROAD, NORTH BRUNSWICK, NJ NUMBER OF TRUCKS REQUIRED: 6 CLASS R	1	HOUR		\$	195.00		
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Majestic Leasing’s submitted Bid Solicitation Attachment #1 – Vendor Equipment Form reflected it proposed six class R trucks for crew 311 (price line 333), with both tailgate mounted and V Box equipment:

SPREADING ONLY	
Crew #:	<u>311</u>
Number of Class P Trucks	_____
Number of Class Q Trucks	_____
Number of Class R Trucks	<u>6</u>
Type of spreading equipment	Tailgate mounted, Mid-Body, or V Box
Are you able to provide on board wetting?	YES ___ or NO <u>X</u>
Are your vehicles capable of offloading unused material quickly after an event?	
YES <u>X</u> or No ___	

On May 29, 2018, the Bureau sought clarification from Majestic Leasing regarding the proposed equipment. Noting that Majestic Leasing’s Bid Solicitation Attachment #1 indicated both “tailgate mounted” and “V Box” equipment, the Bureau requested Majestic Leasing “confirm the type of spreading equipment for the vehicles offered and the quantity for each type of spreading equipment.” On May 30, 2018, Majestic Leasing responded stating it had “six (6) Class R trucks, 4 with V-Box and 2 with Tailgate Mount. These trucks are available for either price line (333 or 348). I submitted bids for both price lines because I will be prepared to handle either price line awarded to me.”

Similarly, Prieto Enterprises submitted a Quote for price line 333.³ In relevant part, Prieto Enterprises’ State-supplied price sheet/schedule reflected an all-inclusive hourly rate of \$175 for class R trucks:

333	SPREADING SERVICES - D.O.T. REGION:CENTRAL CREW #: 311 COLLEGE FARM YARD COLLEGE FARM ROAD, NORTH BRUNSWICK, NJ NUMBER OF TRUCKS REQUIRED: 6 CLASS R	1	HOUR		\$175	/	/
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³ A total of five Vendors {Bidders} submitted Quotes for price line 333, including JMN Trucking Inc., Esposito Construction LLC, T Reagan Trucking Inc., Majestic Leasing, and Prieto Enterprises. Only Majestic Leasing and Prieto Enterprises are discussed in this final agency decision because the other Vendors’ {Bidders’} Quotes reflected fewer trucks than required for the price line (JMN Trucking, Inc. and T. Reagan Trucking) or trucks of a different class than required (Esposito Construction LLC).

Prieto Enterprises' Bid Solicitation Attachment #1 – Vendor Equipment Form for price line 333 reflected it was providing six class R trucks, all with V Box equipment:

SPREADING ONLY	
Crew #:	<u>311</u>
Number of Class P Trucks	<u>—</u>
Number of Class Q Trucks	<u>—</u>
Number of Class R Trucks	<u>6</u>
Type of spreading equipment	Tailgate mounted, Mid-Body, or V Box
Are you able to provide on board wetting?	YES ___ or NO <input checked="" type="checkbox"/>
Are your vehicles capable of offloading unused material quickly after an event?	YES <input checked="" type="checkbox"/> or No ___

On June 5, 2018, 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 One was completed, the Bureau issued a preliminary notice. That preliminary notice advised the Vendors {Bidders} which snow plowing sections would be awarded based upon the Phase One submitted Quotes. In relevant part, the Phase One preliminary notice advised the Bureau proposed the following awards for price line 333:

Line #	AWARDED VENDOR {BIDDER}	AWARDED CLASS "R" TRUCKS	AWARDED CLASS "Q" TRUCKS	AWARDED CLASS "P" TRUCKS	QUANTITY AVAILABLE FOR PROCUREMENT PHASE TWO (2)
332	JMN Trucking Inc.	1	0	N/A	1 CLASS "R" & 2 CLASS "Q"
333	Majestic Leasing & Prieto Enterprises LLC	6	N/A	N/A	0
334	Atlantic Recycling Group	1	5	N/A	0
335	Atlantic Recycling Group	N/A	4	N/A	0

Thereafter, the Bureau commenced Phase Two to solicit Quote pricing for those snow plowing sections for which no responsive Quotes had been received. Requests for Phase Two pricing were sent to all responsive Vendors {Bidders} on June 11, 2018 with a Phase Two Quote submission due date of June 18, 2018 at 2:00 p.m. Phase Three commenced with requests for pricing on June 26, 2018, with a Phase Three Quote submission due date of June 28, 2018 at 2:00 p.m. Because price line 333 received responsive Quotes during Phase One, it was not part of Phase Two or Three.

On July 30, 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.⁴ In relevant part, the Recommendation Report detailed the Quotes received for price line 333 and the equipment each Vendor {Bidder} proposed:

Price Line #333 – the following Vendors {Bidders} submitted responsive Quotes. This Section requires six (6) Class R Trucks. The Quote submitted by Prieto offers the State the quantity of trucks required for this Section at a cost considered to be the overall lowest cost responsive, responsible most advantageous to the State price and other factors considered, and therefore recommended for award of this price line.

- JMN – offered one (1) Tailgate Mounted Class R truck, less than the quantity required for this Section;
- Esposito Construction – offered six (6) V Box Class P Trucks; section requires Class R Trucks;
- T. Reagan – offered three (3) V Box Class R Trucks, less than the quantity required for this Section;
- Majestic – offered two (2) Tailgate Mounted Class R Trucks and four (4) V Box Class R Trucks, ; and
- Prieto – offered six (6) V Box Class R Trucks, the required quantity and truck class for this Section.

[Recommendation Report, p. 38.]

However, addressing the fact that the June 5, 2018 preliminary notice reflected a shared award on price line 333, the Recommendation Report explained:

Price Line #333 – Further evaluation of the submitted Quotes submitted for this price line revealed that the two (2) Class R Trucks offered by Majestic were preliminarily awarded in error. Further review indicates that although Majestic offered all six (6) R Trucks, it offered four (4) V Box and two (2) Tailgate Mounted and Prieto offered all six (6) V Box Class R Trucks. Therefore for the reason stated, the preliminary award to Majestic is rescinded and recommended to Prieto.

[Recommendation Report, p. 49.]

On August 24, 2018, the NOI was issued advising all Vendors {Bidders} that it was the State’s intent to award Blanket P.O.s consistent with the Bureau’s Recommendation Report, including a spreadsheet detailing the results of all three phases of the procurement. In relevant part, the intended awardee on price line 333 was Prieto Enterprises:

333	Single	Crew# 311 College Farm Yard	Prieto Enterprises LLC	Phase One (1)	Six (6) Class R - without a wetting system
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On August 24, 2018, the Division received Majestic Leasing’s protest in which it challenged the intended Blanket P.O. awards on price line 333. Majestic Leasing wrote:

⁴ The list of Vendors {Contractors} who are recommended to receive Blanket P.O. awards are listed in the attachment to the Bureau’s July 30, 2018 Recommendation Report.

I understand that bids are mainly about price, but they are also about company ratings, and experience. In 2013 I started salt spreading at this line at \$250.00 an hour. Later, I agreed to lower my price to \$230.00 an hour. I submitted a new bid this year of \$195.00 an hour which I had found justified and fair; knowing other companies are working for significantly much more an hour.

I am a minority woman running a small business trying to run a honest company to survive to pay my rent and support my son. I consider removing my company off line #333, without even the opportunity of sharing the line with another company, completely unjustified and unfair. I now have zero (0) routes, while Prieto Enterprises LLC took the line and they already have eleven (11) other trucks running salt spreading lines, plus the three that were supposed to be shared with me, now giving them fourteen (14) total. In addition, this company also was awarded sixty-one (61) trucks for snow plowing and one (1) truck loader.

I believe I have the right to know why I was given line #333 in Phase (1) to share, and why the decision was made to remove me and leave me with zero (0) salt spreading routes.

I plead you to reconsider your decision and allow me to share the line with the other company as it was originally in Phase (1). My company has always provided excellent service and is well regarded with College Farms Yard - Crew #311. I have attached proof of Phase (1) in case there was an oversight.

Accompanying the protest, Majestic Leasing included a copy of the June 5, 2018 spreadsheet that accompanied the Phase One preliminary notice of intent to award excerpted above, demonstrating the Bureau's initial conclusion that Majestic Leasing was sharing price line 333 with Prieto Enterprises.

In consideration of Majestic Leasing'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.

DISCUSSION

As noted above, Bid Solicitation Section 6.7.1 *Vendor's {Bidder's} Price Schedule* advised Vendors {Bidders} that the Bureau would recommend Blanket P.O. awards for spreading services to the Vendor {Bidder} submitting the lowest hourly rate for each Snow Section, with a preference provided to Vendors {Bidders} that could supply all required trucks on a given line, and a further preference for equipment, both in class of truck and vehicle equipment:

Spreading Services:

- 1st – Vendors {Bidders} supplying all required Class R trucks with an on board wetting system;
- 2nd – Vendors {Bidders} supplying all required Class R trucks;
- 3rd – Vendors {Bidders} supplying all required Class Q trucks with an on board wetting system;
- 4th – Vendors {Bidders} supplying all required Class Q trucks;

- 5th – Vendors {Bidders} supplying all required Class P trucks with an on board wetting system;
- 6th – Vendors {Bidders} supplying all required Class P trucks;
- 7th – Vendors {Bidders} supplying V Box trucks with an on board wetting system;
- 8th – Vendors {Bidders} supplying V Box trucks;
- 9th – Vendors {Bidders} supplying mid-body style trucks with an on board wetting system; and
- 10th – 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.

[Emphasis added.]

In other words, class R trucks with tailgate mounted equipment would be awarded lines before class R trucks with V Box equipment, and class R V Box trucks would be awarded lines before class R mid-body style trucks. See Bid Amendment No. 1, Question 6 (modifying Bid Solicitation sections 1.1 and 6.7.1 to reflect award preference based on type of equipment).

Here, as noted above, the Bureau received two Quotes on price line 333 from Vendors {Bidders} that included all six class R trucks that the line required; one from Majestic Leasing and the other from Prieto Enterprises. But, each Vendor {Bidder} proposed different equipment. Majestic Leasing proposed two tailgate mounted trucks and four V Box trucks, while Prieto Enterprises proposed six V Box trucks. Accordingly, the Bureau erroneously applied the preference methodology from Bid Solicitation section 6.7.1 and recommended Prieto Enterprises as the intended awardee for price line 333.

While Prieto Enterprises proposed all required class R trucks for the Snow Section with V Box equipment, Majestic Leasing should have received the award of price line 333 because it provided two tailgate mounted class R trucks and four V Box class R trucks, which should have received a higher ranking than a Quote providing all of the required class R trucks with V Box equipment. See Bid Solicitation § 6.7.1 *Vendor's {Bidder's} Price Schedule* (ranking "Vendors {Bidders} supplying V Box trucks" over "Vendors {Bidders} supplying mid-body style trucks"); Bid Amendment No. 1, Question 6 (modifying Bid Solicitation sections 1.1 and 6.7.1 to reflect award preference based on type of equipment). Even though Majestic Leasing Quoted an hourly rate of \$195 per hour while Prieto Enterprises Quoted a rate of \$175, the order of award preference set forth in Bid Solicitation section 6.7.1 dictates Majestic Leasing be the sole intended awardee for price line 333.⁵


CONCLUSION

Based upon the foregoing, I hereby rescind the notice of intent to award on price line 333 issued to Prieto Enterprises and re-award the price line to Majestic Leasing. This is my final agency decision with respect to the protest submitted by Majestic Leasing.

⁵ It is noted that the Bureau's Phase One preliminary notice was also incorrect in that it intended to partially award Majestic Leasing the two tailgate mounted class R trucks Quoted.

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, 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:REG

c: Gina Mancini (via email at Prietoenterprisesllc@gmail.com and regular mail 255 S. Inman Ave,
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