



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
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April 30, 2019

Via Electronic Mail [cbunio@cdlawfirm.net] and USPS Regular Mail

Louis A. Chiarolanza  
Chiarolanza & DeAngelis, LLP  
36 Main Street  
Madison, NJ 07940-1891

Re: I/M/O Bid Solicitation #19DPP00334 DeFalco's Automotive & Towing  
T2171 – Vehicle Towing and Roadside Services

Dear Mr. Chiarolanza:

This letter is in response to your letter of April 26, 2019, on behalf of DeFalco's Automotive & Towing (DeFalco) to the Division of Purchase and Property's (Division) Hearing Unit requesting that the Division accept a late Quote in response to Bid Solicitation #19DPP00334, T2171 – Vehicle Towing and Roadside Services (Bid Solicitation).

By way of background, on January 18, 2019, the Division's Procurement Bureau (Bureau) issued the Bid Solicitation on behalf of the Bureau of Transportation Services, Division of Administration, Department of the Treasury (Transportation), to solicit Quotes from qualified Vendors {Bidders} to provide vehicle towing and roadside repair services. Bid Solicitation § 1.1 *Purpose and Intent*. It is the State's intent to award up to five Master Blanket Purchase Orders ("Blanket P.O.s") to those responsible Vendors {Bidders} whose Quotes, conforming to this Bid Solicitation is most advantageous to the State, price and other factors considered. Ibid.

On April 11, 2019, the Division's Proposal Review Unit the Quotes received by the submission deadline of 2:00 pm eastern time. The record of this procurement reveals that the Division received 28 Quotes submitted through the **NJSTART** eProcurement system and 12 Quotes submitted by hard copy prior to the Quote opening deadline.

On April 26, 2019, DeFalco wrote the Division's Hearing Unit stating in part:

Unfortunately, my client interpreted "quote opening day" to be the first day that the bid could be submitted. They has previously completed the application prior to that date but did not submit it.

In view of the fact that my client misinterpreted this date, I would greatly appreciate if you would reconsider your rejection of this bid proposal and allow it to be accepted.

In consideration of DeFalco'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.

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. In relevant part the regulations provide that "[i]n order to be eligible for consideration for award of [Blanket P.O.], the bidder's [Quote] shall ... [b]e submitted on or before the due date and time and at the place specified in the [Bid Solicitation]." N.J.A.C. 17:12-2.2(a), *emphasis added*. If the requirements of N.J.A.C. 17:12-2.2 are not met, a Quote must be rejected. These regulations are stringently enforced to maintain the equal footing of all Bidders and to ensure the integrity of the State's bidding process.

In accordance with the Division's regulations, the Bid Solicitation advised all potential Vendors {Bidders} of the requirements for proper and timely Quote submission stating:

### **1.3.2 SUBMISSION OF QUOTES {PROPOSALS}**

In order to be considered for award, the Quote must be received by the Procurement Bureau of the Division at the appropriate location by the required time.

Vendors {Bidders} shall submit a Quote either electronically through NJSTART or via hard copy.

**QUOTES NOT RECEIVED PRIOR TO THE QUOTE OPENING DEADLINE SHALL BE REJECTED. 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 {ADDENDUM} AND ON THE "SUMMARY" TAB OF THE BID SOLICITATION WEBPAGE WITHIN NJSTART.**

Procedural inquiries concerning the use of NJSTART may be directed to [njstart@treas.nj.gov](mailto:njstart@treas.nj.gov) and/or (609) 341-3500.

The State will not respond to substantive questions related to the Bid Solicitation or any other Blanket P.O. via this e-mail address or phone number. For inquiries related to substantive questions refer to Section 1.3.1 (Electronic Question and Answer Period).

*[Emphasis in the original.]*

Additionally, Bid Solicitation Section 4.2 *Quote Delivery and Identification* advised Vendors {Bidders} that

A Quote must arrive at the Division in accordance with this Bid Solicitation's instructions within the time frames noted on the Bid Solicitation cover sheet and on the "Summary" page of the Bid Solicitation in *NJSTART*, or as indicated on the posted Bid Amendment if the Quote Opening Date has been changed. Vendors {Bidders} submitting electronic Quotes via *NJSTART* are cautioned to allow adequate time to ensure timely uploads of all Quote documents to mitigate unforeseen delays or issues. Vendors {Bidders} submitting hard copy Quotes are cautioned to allow adequate delivery time to ensure timely delivery of Quotes. **State regulation mandates that late Quotes, regardless of submission method, are ineligible for consideration.**

Moreover, Bid Solicitation Section 4.3.2 advised in part that:

**QUOTES NOT RECEIVED PRIOR TO THE QUOTE OPENING DEADLINE SHALL BE REJECTED. THE DATE AND TIME OF THE QUOTE OPENING IS INDICATED ON THE BID SOLICITATION COVER SHEET AND ON THE "SUMMARY" TAB OF THE BID SOLICITATION WEBPAGE WITHIN *NJSTART*.**

...

Note: A Vendor {Bidder} using U.S. Postal Service regular or express mail services should allow additional time since the U.S. Postal Service does not deliver directly to the Proposal Receiving Room. A Vendor {Bidder} should make every effort to submit its Quote well ahead of the Quote submission deadline to mitigate unforeseen delays or issues. The Vendor {Bidder} is solely responsible for the timely submission of its Quote in response to this Bid Solicitation.

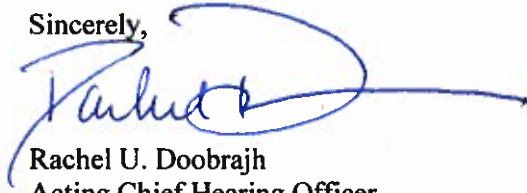
[Second emphasis added.]

With the above principals in mind, Vendors {Bidders} were cautioned to allow adequate time to ensure that the Quote is properly and timely submitted by the Quote opening deadline, April 11, 2019 at 2:00 p.m. eastern time.

Despite DeFalco's desire to submit a Quote for the subject solicitation, under the provisions set forth above, the statutory procurement laws, and the regulations of the State of New Jersey, the Division is unable to accept DeFalco's Quote. See, N.J.S.A. 52:34-12, N.J.A.C. 17:12-2.2. Such acceptance would un-level the Vendor's {Bidder's} playing field as the Division received other Quotes by the submission deadline. In light of the findings set forth above, I must unfortunately deny your request for eligibility to participate in the competition for the subject Blanket P.O. This is my final agency decision.

This is an unfortunate situation for the State, as we encourage competition and appreciate your expertise in the field. In the future, I encourage earlier initiation of submissions to ensure timely receipt of Quotes and to allow for any issues which may arise. I look forward to your company's continuing interest in doing business with the State of New Jersey.

Sincerely,



Rachel U. Doobrajh  
Acting Chief Hearing Officer

c: A. Davis  
R. Regan  
E. Castaldo  
D. Rodriguez  
A. Nelson