



State of New Jersey

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

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MAURICE A. GRIFFIN
Acting Director

February 16, 2021

Via Electronic Mail Only qualglass@aol.com

Ron Morris
Quality Auto Glass Inc.
2300 South Clinton Avenue
South Plainfield, NJ 07080

Re: IMO Bid Solicitation #20DPP00496 Quality Auto Glass Inc.
Request to Submit a Late Quote
T0084 Automotive Glass Parts and Windshield Repair/Replacement

Dear Mr. Morris:

This final agency decision is in response to your email of February 11, 2021, on behalf of Quality Auto Glass Inc. (Quality) which was received by the Division of Purchase and Property's (Division) Hearing Unit. In that email, Quality requests permission to submit a late Quote in response to Bid Solicitation #20DPP00496 - T0084 Automotive Glass Parts and Windshield Repair/Replacement (Bid Solicitation).

By way of background, on October 30, 2020, the Division's Procurement Bureau (Bureau) issued the Bid Solicitation on behalf of all New Jersey State-Using Agencies and Cooperative Purchasing Program participants. The purpose of this Bid Solicitation is to solicit Quotes for Automotive Glass Parts and Windshield Repair/Replacement. Bid Solicitation § 1.1 *Purpose and Intent*. On December 30, 2020, the Division's Proposal Review Unit opened six (6) Quotes received by the submission deadline. After conducting a preliminary review of the Quotes received, those Quotes which conformed to the administrative requirements for Quote submission were forwarded to the Bureau for review and evaluation consistent with the requirements of Bid Solicitation § 6.7 *Evaluation Criteria*. Those Quotes are currently under evaluation by Bureau.

Subsequent to the Quote opening date, on February 4, 2021, Quality wrote to the Division's **NJSTART** Vendor Administration team inquiring about the subject Bid Solicitation. Specifically,

We are trying to acknowledge this bid amendments for Bid # 20DPP00496. We do see the opening bid was 12/30/2020. We were never notified and do not want to miss out on the bidding. We spoke to NJ in the fall when the contract was extended about how we were giving discounts due to Covid, help with whatever we can with scheduling and have been working with the agencies. Do you see our bid listed for this contract?

The Division's *NJSTART* Vendor Administration team responded as follows:

The Bid Opening date for the Bid Solicitation you indicated was 12/30/2020 @ 02:00:59 PM and currently there is an Award in Process. If you had not submitted your Bid by that date and time you cannot be considered for an award under this procurement.

After several emails, the Division *NJSTART* Vendor Administration team advised Quality that it could submit a protest to the Division's Hearing Unit related to the request to submit a late Quote. On February 11, 2021, Quality wrote to the Division's Hearing Unit stating in part:

I am writing to appeal bid #20DPP0049 or T0084-40176 Automotive Glass cut off time...We have been awarded this contract for the last 7 years. Quality Auto Glass was never notified that a new bid was put out to submit. I do know emails were sent as per a response to our questions. We were only notified that they extended the old bid and never given a submit date and told the new bid was up to submit. We have made adjustments to our prices to the contract also due to COVID. We were working at a minimum the last year due to COVID. We have had our salesman out due to a heart attack in December. Quality Auto Glass have been servicing NJ for 7 years (have the current contract) and would like to be considered. Due to the extension and us not receiving communication that the bid was up for only a few weeks before it was closed we feel that we should be able to submit and be considered.

In consideration of Quality's protest, I have reviewed the record of this procurement, including the Bid Solicitation, the Quotes submitted, the protest, the relevant statutes, regulations and case law. The 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.

The Division's public procurement program reflects the New Jersey statutory and regulatory requirements that have been affirmed by New Jersey courts. A basic precept of the Division's governing statutes and regulations requires that Quotes must be submitted by the deadline specified in the public advertisement and website notice. The Division's regulations set forth procurement notification requirements at N.J.A.C. 17:12-2.1 *Advertising* which states in pertinent part:

- (a) Advertising is required when the contract amount is expected to exceed the public bidding threshold or is not subject to the relevant exceptions of N.J.S.A. 52:34-6, 9, or 10. Public notice of the bidding opportunity shall be placed on the Division's website and with other media, including newspapers, as required by law at N.J.S.A. 52:34-12 and determined by the State Treasurer to provide best notice thereof to bidders. Advertisements shall be made a minimum of seven business days in advance of the announced deadline for receipt of proposals to encourage free and open competition.
- (b) If, during the course of an advertised procurement pursuant to (a) above, it becomes necessary to alter any of the terms, conditions, or requirements of the request for proposal, such alterations shall be set forth in addenda to the RFP and shall be advertised a minimum of

seven business days in advance of the announced deadline for receipt of proposals.

- (c) In addition to statutorily mandated public advertising, the Division shall also publish notices of bidding opportunities on the Division's website.

The record of this procurement shows that notice of the subject Bid Solicitation was publicly advertised in The Star-Ledger on October 30, 2020, as required by the applicable regulation. N.J.A.C. 17:12-2.1(a) and (c)

NOTICE OF BID SOLICITATION
SET-ASIDE FOR NEW JERSEY SMALL BUSINESSES

NOTICE IS HEREBY GIVEN THAT SEALED QUOTES WILL BE RECEIVED BY THE PROPOSAL REVIEW UNIT, ELECTRONICALLY THROUGH NJSTART (WWW.NJSTART.GOV), UNTIL 2:00 P.M. ON DECEMBER 30, 2020 FOR THE FOLLOWING BID SOLICITATION:

20DPP00496 / T0084 -
AUTOMOTIVE GLASS PARTS AND WINDSHIELD REPAIR/REPLACEMENT

QUOTES WILL BE PUBLICLY OPENED AND ANNOUNCED BY TELEPHONE CONFERENCE (DIAL-IN PHONE NUMBER: 888-204-5984 / ACCESS CODE: 2602305).

AN OPTIONAL PRE-QUOTE CONFERENCE WILL BE HELD AS FOLLOWS:
DATE: NOVEMBER 17, 2020
TIME: 10:30 AM
TELEPHONE CONFERENCE DIAL-IN NUMBER: 888-204-5984
ACCESS CODE: 2602305
LOCATION

INFORMATION ABOUT NJSTART AND THE BID SOLICITATION DOCUMENTS ARE AVAILABLE AT: WWW.NJSTART.GOV.

A VENDOR SEEKING TO ESTABLISH OR VERIFY ELIGIBILITY AS A NEW JERSEY SMALL BUSINESSES PURSUANT TO THE PROVISIONS OF N.J.A.C. 17:13 SHOULD CONTACT THE DEPARTMENT OF THE TREASURY'S DIVISION OF REVENUE AND ENTERPRISE SERVICES, SMALL BUSINESS REGISTRATION AND M/WBE CERTIFICATION SERVICES UNIT.

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
10/30/20 \$115.92

Additionally, notice of the Bid Amendment was similarly published in The Star-Ledger on December 14, 2020.

NOTICE OF BID SOLICITATION AMENDMENT

NOTICE IS HEREBY GIVEN THAT BID AMENDMENT #1 HAS BEEN POSTED FOR THE FOLLOWING BID SOLICITATION:

20DPP00496 / T0084 – Automotive Glass Parts and Windshield Repair/Replacement

SEALED QUOTES WILL BE RECEIVED BY THE PROPOSAL REVIEW UNIT, ELECTRONICALLY THROUGH NJSTART (WWW.NJSTART.GOV), UNTIL 2:00 P.M. ON DECEMBER 30, 2020.

QUOTES WILL BE PUBLICLY OPENED AND ANNOUNCED BY TELEPHONE CONFERENCE (DIAL-IN PHONE NUMBER: 888-204-5984 / ACCESS CODE: 2602305).

INFORMATION ABOUT NJSTART AND THE BID SOLICITATION DOCUMENTS ARE AVAILABLE AT: WWW.NJSTART.GOV.

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
12/14/20 \$54.25

Both advertisements were placed in The Star Ledger more than seven business days prior to the Quote opening as required by N.J.A.C. 17:12-2.1(a). Additionally, notice of the Bid Solicitation and the Bid Amendment were made on the Division’s **NJSTART** eProcurement site.

With respect to electronic procurement notification, the Division’s governing regulations also state:

As a service to vendors interested in competing for State contracts to be awarded by the Division and to any other parties seeking information about bidding opportunities available via the Division's competitive contract procurement program, the Division provides an on-line self-registration service on its website. Vendors and other interested parties can register to receive direct e-mail notices pertaining to the Division's procurements for goods or services based upon specific commodity classes or codes. As this is a self-registration process, it does not create an entitlement for any party to receive notice of any particular solicitation of proposals, and the Division and the State shall not be liable for any losses, claims, or damages of any kind if a vendor or other party, for any reason, is not registered or does not receive an e-mail notice. It is the responsibility at all times for registrants to exercise due diligence in reviewing the notices on the Division's website to assure their awareness of State bidding opportunities announced by the Division.

[N.J.A.C. 17:12-2.1(d).]

In keeping with regulation, all Vendors {Bidders} who were registered with **NJSTART** for any of the NIGP Commodity Codes associated with this procurement received electronic notification of the procurement. The responsibility of registration, selection of commodity codes, and maintenance of the business entity’s contact information, necessarily rests solely with the potential Vendor {Bidder} who will only receive an electronic notification for procurements associated with those commodity codes for which it is registered, sent to the email address on file in the **NJSTART** eProcurement system. A review of record of this procurement reveals that Quality was registered for at least one of the NIGP Commodity Codes associated with this procurement, and did in fact receive electronic notice of the procurement, sent to the email address listed in its Vendor Profile at the time of this procurement.

Disable All	Add All To Tender List	Vendor ID	Vendor Name	Vendor Address	Preferred Delivery Method	Bid Acknowledgement Time	Notifications	Responded	Print Solicitation
<input type="checkbox"/>	<input type="checkbox"/>	V00004492	Quality Auto Glass Inc.	General Mailing Address - Ronald Morris 2300 South Clinton Avenue ... 2300 South Clinton Avenue South Plainfield, NJ 07080 US	Email	01/28/2021 09:36:48 AM	Bid Available: Emailed to rmmorris383@aol.com at 10:30:01:00 09:01:50 AM Bid Amendment: Emailed to rmmorris383@aol.com at 12/14/2020 12:51:43 PM	No	Print

Accordingly, the record of this procurement shows that this Bid Solicitation was publically advertised and was open and available for review and submission of a Quote by any potential Vendor {Bidder}, regardless of whether the potential Vendor {Bidder} was registered in **NJSTART** or not; and was conducted in full accordance with the Division’s governing statutes and regulations and by its standard announcement procedures and practices.

Further, prior to the advertisement of subject Bid Solicitation, the Bureau put current Vendors {Contractors} on notice that the reprourement of the subject contract might occur during the extension term. Specifically, on October 14, 2020, the Bureau sent a letter to Quality a letter requesting that it extend its then current contract for a period of six months from November 1, 2020 through April 30, 2021, the time frame covering the advertisement of the subject Bid Solicitation. That letter specifically advised:¹

As a reminder, if this contract is extended, reprourement of this contract may occur during this extension period. If you have not already done so, you are encouraged to visit the Division of Purchase and Property's eProcurement system, *NJSTART*, at www.njstart.gov to view current bidding opportunities and to ensure that your company is registered for all applicable commodity codes related to your company's business in order to receive notices when new bidding opportunities are announced. Instructions on how to select commodity codes, can be found in the Division of Purchase and Property's Quick Reference Guide entitled "Vendor Registration," which can be found at: <http://www.state.nj.us/treasury/purchase/njstart/pdf/ORG-Vendor-Registration.pdf>.

On October 15, 2020, Quality responded to the Bureau's letter agreeing to extend its then current contract through April 30, 2017.

Although Quality requests that it be permitted to participate in the procurement process, the administrative regulations that govern the Division's advertised procurement process establish certain requirements that must be met in order for a Quote to be accepted. The Division's governing regulations provide in relevant part: "[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.

If the Division were to permit Quality to submit a Quote after the Quote opening deadline, Quality would be placed in a position of advantage over all other Vendors {Bidders}. Under the provisions set forth above, the statutory procurement laws, and the regulations of the State of New Jersey, the Division cannot accept a late Quote from Quality or any other Vendor {Bidder}. Such acceptance would un-level the Vendor's {Bidder's} playing field.

In light of the findings set forth above, I must deny your request for eligibility to participate in the competition for the subject Blanket P.O. This is an unfortunate situation for the State, as we encourage competition and appreciate your expertise in the field. This is the Division's final agency decision.

¹ The October 14, 2020, extension letter was sent to the same email address listed on Quality's *NJSTART* Vendor Profile to which the notification of the Bid Solicitation were sent.

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, and to ensure that contact information is up to date, so that you may receive notification of future bidding opportunities.

Sincerely,

Rachel Doobrajh

Rachel Doobrajh
Acting Chief Hearing Officer

- c. M. Dunn
- R. Regan
- J. Loughran
- A. Nelson
- D. Rodriguez