



# State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR  
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*Acting Director*

April 17, 2018

Via Electronic Mail [[cari@ajconstruct.com](mailto:cari@ajconstruct.com)] and USPS Regular Mail

Cari Larkin  
Project Administrator  
A&J Construction  
5026 Industrial Road  
Farmingdale, NJ 07727

Re: I/M/O Bid Solicitation #18DPP00205 A&J Construction  
T0777 Snow Plowing and Spreading Services

Dear Ms. Larkin:

This letter is in response to your email and letter of April 12, 2018, on behalf of A&J Construction (“A&J Construction”) to the Division of Purchase and Property. In those letters, A&J Construction states it intended to submit a Quote {Proposal} (hereinafter “Quote”)<sup>1</sup> in response to Bid Solicitation #18DPP00205 - T0777 Snow Plowing and Spreading Services – NJDOT (“Bid Solicitation T0777 Snow Plowing and Spreading Services”). But, A&J Construction asserts the posting of Bid Amendment number 1 for Bid Solicitation #18DPP00222 – T2924 Snow Plowing Services by Area – NJDOT (“Bid Solicitation T2924 Snow Plowing Services by Area”) led A&J Construction to believe that the Quote submission due date for Bid Solicitation T0777 Snow Plowing and Spreading Services was pushed back to April 12, 2018, the Quote submission due date for Bid Solicitation T2924 Snow Plowing Services by Area. In light of its confusion, A&J Construction requests the State allow it to submit a Quote in response to Bid Solicitation T0777 Snow Plowing and Spreading Services.

<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.

<i>NJSTART</i> 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

By way of background, on January 30, 2018, the Division's Procurement Bureau ("Bureau") issued Bid Solicitation T0777 Snow Plowing and Spreading Services on behalf of the New Jersey Department of Transportation (NJDOT), to solicit Quotes<sup>2</sup> from qualified Vendors {Bidders} to provide snow plowing and spreading services on all State interstates and highways under the jurisdiction of NJDOT. Bid Solicitation T0777 Snow Plowing and Spreading Services § 1.1 *Purpose and Intent*. It is the State's intent to award Statewide Master Blanket Purchase Orders ("Blanket P.O.s")<sup>3</sup> to those responsible Vendors {Bidders} whose Quotes, conforming to this Bid Solicitation are most advantageous to the State, price and other factors considered. Ibid.

Bid Solicitation T0777 Snow Plowing and Spreading Services sought Quotes for "approximately 303 Snow Sections, with each section requiring a specific amount of equipment to perform snow plowing and spreading services." Bid Solicitation T0777 Snow Plowing and Spreading Services § 1.2 *Background*. It is State's intent to award one or multiple Statewide Blanket P.O.s {Contracts} (hereinafter "Blanket P.O.") to the Vendor {Bidder} "submitting the lowest hourly rate for each Snow Section, and meeting, at a minimum, the criteria for experience and equipment as set forth in [the] Bid Solicitation." Bid Solicitation T0777 Snow Plowing and Spreading Services § 1.1 *Purpose and Intent*.

In contrast, Bid Solicitation T2924 Snow Plowing Services by Area is seeking<sup>4</sup> Quotes "to provide snow plowing services for areas of State interstates and highways under the jurisdiction of the NJDOT." Bid Solicitation T2924 Snow Plowing Services by Area § 1.1 *Purpose and Intent*. Bid Solicitation T2924 Snow Plowing Services by Area divides the State into three regions, with each region divided into pre-defined "Maintenance Areas." Ibid. Bid Solicitation T0777 Snow Plowing and Spreading Services notes that State roadways are "broken down into Snow Sections and assigned to contracted snow plows to clear the roadways. During more intense storms, the existing resources are unable to meet demand to continually maintain a safe level of services for all roadways; thus requiring the NJDOT to use additional resources to provide snow plowing services." Bid Solicitation T2924 Snow Plowing Services by Area § 1.2 *Background*. Thus, while both Bid Solicitations seek Quotes for a type of snow plowing service, Bid Solicitation T0777 Snow Plowing and Spreading Services has a focus on specific Snow Sections while Bid Solicitation T2924 Snow Plowing Services by Area has a focus on Maintenance Areas to supplement the Snow Section plowing when needed.

On February 28, 2018, the Bureau issued Bid Amendment #1 to Bid Solicitation T0777 Snow Plowing and Spreading Services responding to the questions posed by potential Vendors {Bidders}. In relevant part, questions ten and eleven read as follows:

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<sup>2</sup> Bid Solicitation T0777 Snow Plowing and Spreading Services § 2.2 *General Definitions* defines "Quote {Proposal} [as a] Vendor's {Bidder's} timely response to the Bid Solicitation {RFP} including, but not limited to, technical Quote {Proposal}, price Quote {Proposal}, and any licenses, forms, certifications, or other documentation required by the Bid Solicitation {RFP}." *Emphasis added.*

<sup>4</sup> It is noted that the Quote submission date for Bid Solicitation T2924 Snow Plowing Services by Area was April 12, 2018.

10	New Bid 18DPP00222	<p><b>I received the new RFP today and I don't understand why it's by area? Using seven trucks? We usually use 6-7 per section.</b></p> <p>Vendors {Bidders} are advised that the following Bid Solicitations {RFPs} and currently advertised are two (2) separate Bid Solicitations (RFPs):</p> <ol style="list-style-type: none"> <li>1. 18DPP00205 – is for Snow Plowing and Spreading Services-NJDOT; and</li> <li>2. 18DPP00222 – is for Snow Plowing Services by Area-NJDOT.</li> </ol> <p>Vendors {Bidders} are advised to thoroughly read both Bid Solicitations {RFPs} as they are two (2) completely different Bid Solicitations {RFPs}</p>
11	Bid# 18DPP00205	<p><b>Which of these is the correct date for bid opening? Is it now April?</b></p> <p>The Quote {Proposal} Submission Date for 18DPP00205 Snow Plowing and Spreading Services-NJDOT is March 16, 2018.</p> <p>The Quote {Proposal} Submission Date for 18DPP00222 Snow Plowing Services by Area-NJDOT is April 12, 2018.</p>

On March 16, 2018, the Quote submission deadline for Bid Solicitation T0777 Snow Plowing and Spreading Services, the Division's Proposal Review Unit opened 136 Quotes submitted in response to Bid Solicitation T0777 Snow Plowing and Spreading Services through the State's *NJSTART* eProcurement system and 41 Quotes received in hardcopy format by the submission deadline of 2:00 pm eastern time.

Also, on March 16, 2018, the Bureau posted Bid Amendment #1 to Bid Solicitation T2924 Snow Plowing Services by Area including the same guidance:

3	New Bid 18DPP00222	<p><b>I received the new RFP today and I don't understand why it's by area? Using seven trucks? We usually use 6-7 per section.</b></p> <p>The purpose of this Bid Solicitation is to solicit Quotes {Proposals} to provide snow plowing services for <u>areas</u> of State interstates and highways. This Bid Solicitation requires the Vendor {Bidder} to supply seven (7) trucks for each area it is awarded.</p> <p>Vendors {Bidders} are advised that the following Bid Solicitations {RFPs} are two (2) separate Bid Solicitations (RFPs):</p> <ol style="list-style-type: none"> <li>1. 18DPP00205 – is for T0777 – Snow Plowing and Spreading Services-NJDOT; and</li> <li>2. 18DPP00222 – is for T2924 – Snow Plowing Services by Area-NJDOT.</li> </ol> <p>Vendors {Bidders} are advised to thoroughly read each Bid Solicitation {RFP} as each one addresses different requirements.</p>
4	Bid #18DPP00205	<p><b>1. Which of these is the correct date for bid opening?</b></p> <p>The Quote {Proposal} Submission Date for <u>18DPP00205</u> Snow Plowing and Spreading Services – NJDOT is <u>March 16, 2018</u>.</p> <p><b>2. Is it now April?</b></p> <p>The Quote {Proposal} Submission Date for 18DPP00222 Snow Plowing Services by Area – NJDOT is <u>April 12, 2018</u>.</p>

On April 12, 2018, after the Quote submission deadline for Bid Solicitation T0777 Snow Plowing and Spreading Services, A&J Construction wrote to the Bureau's Procurement Specialist stating:

As a result of our incorrectly applying amendment No.1 for 18DPP00222 which was posted the day 18DP00205 was due, we believed that the bid for the latter was pushed back to April 12, 2018.

We have a complete bid set for 18DPP00205 which includes pricing for the plow section 5324253 Central crew Wall. We currently have that section and have been plowing it for several years.

We are requesting that the State allow us to submit our bid package which also includes pricing for sections 5324262 and 5328266.

At a minimum please advise as to whether any pricing was received on those sections.

We apologize for any inconvenience.

A&J Construction's letter was accepted as protest.

In consideration of A&J Construction's protest, I have reviewed the record of this procurement, including both Bid Solicitations, 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 public procurement program reflects the New Jersey statutory and regulatory requirements that have been affirmed by New Jersey courts. The Division's regulations set forth procurement notification requirements at N.J.A.C. 17:12-2.1 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.

Here, notice of Bid Solicitation T0777 Snow Plowing and Spreading Services and Bid Amendment #1 to Bid Solicitation T0777 Snow Plowing and Spreading Services were publicly advertised on the Division's *NJSTART* eProcurement site, and as shown below, notice was also published in The Star-Ledger on January 30 and March 1, 2018, as required by the applicable regulation. N.J.A.C. 17:12-2.1(a) and (c)

NOTICE OF NJSTART  
BID SOLICITATION

NOTICE IS HEREBY GIVEN THAT SEALED QUOTES (PROPOSALS) WILL BE RECEIVED IN THE PROCUREMENT BUREAU RECEPTION ROOM, 9TH FLOOR, 33 WEST STATE STREET, P.O. BOX 230, TRENTON, N.J., 08625-0230, UNTIL 2:00 P.M. ON **MARCH 16, 2018** AND WILL BE PUBLICLY OPENED AND ANNOUNCED FOR THE FOLLOWING NJSTART PROCUREMENT PROGRAM SOLICITATION:

18DPP00205 (T-0777) - Snow Plowing and Spreading Services - NJDOT

VENDORS (BIDDERS) ARE ALSO REQUIRED TO COMPLY WITH THE STANDARD TERMS AND CONDITIONS CONTAINED IN THE BID SOLICITATION (RFP).

INFORMATION ON THE NJSTART PROCUREMENT PROGRAM AND BID SOLICITATION (RFP) DOCUMENTS ARE AVAILABLE AT: [www.njstart.gov](http://www.njstart.gov) AND ON THE DIVISION'S WEBSITE AT: [www.state.nj.us/treasury/purchase](http://www.state.nj.us/treasury/purchase)

STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
1/30/2018 \$60.45

NOTICE OF NJSTART  
BID SOLICITATION

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18DPP00205 (T-0777) - Snow Plowing and Spreading Services - NJDOT

NOTE: Bid Amendment (Addendum)1 e-Mailed: February 26, 2018 Original Quote (Proposal) Submission: March 16, 2018  
**No Change**

VENDORS (BIDDERS) ARE ALSO REQUIRED TO COMPLY WITH THE STANDARD TERMS AND CONDITIONS CONTAINED IN THE BID SOLICITATION (RFP).

INFORMATION ON THE NJSTART PROCUREMENT PROGRAM AND BID SOLICITATION (RFP) DOCUMENTS ARE AVAILABLE AT: [www.njstart.gov](http://www.njstart.gov) AND ON THE DIVISION'S WEBSITE AT: [www.state.nj.us/treasury/purchase](http://www.state.nj.us/treasury/purchase)

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3/1/2018 \$68.20

Accordingly, the record of this procurement shows that the procurement was conducted in full accordance with the Division's governing statutes and regulations and by its standard announcement procedures and practices.

Further, the Division's regulations set forth electronic procurement notification requirements at N.J.A.C. 17:12-2.1, which states in pertinent part:

- (d) 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 known as the e-RFP Notification Service.<sup>5</sup> 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,

<sup>5</sup> The e-RFP Notification Service is no longer a stand-alone system. Rather, this functionality is offered exclusively through *NJSTART*, and managed through Vendor {Bidder} registration for applicable *NIGP Commodity Codes*. The Division maintains a number of Vendor Reference Guides on its *NJSTART* Vendor Support page, which can be found here: <http://www.nj.gov/treasury/purchase/njstart/vendor.shtml>, to assist in competing registration and managing the Vendor Profile.

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 e-RFP Notification Service 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

In keeping with this regulation, all Vendors {Bidders} who were registered with *NJSTART* for *NIGP Commodity Code 968-72/Snow and Ice Removal Services*, the sole class code associated with Bid Solicitation T0777 Snow Plowing and Spreading Services, received electronic notification of the procurement and all Bid Amendments.<sup>6</sup> It is noted that Bid Solicitation T2924 Snow Plowing Services by Area also used *NIGP Commodity Code 968-72/Snow and Ice Removal Services*. Therefore, all Vendors {Bidders} registered with this code in their Vendor Profiles, would have received all notices regarding both procurements.

A review of A&J Construction's selected NIGP codes reveals that it is registered for four NIGP codes, none of which are associated with this procurement:

Commodity Codes and Services Information		
Active	Code	
✓	830-69	Steel Tanks, Storage Type: Fuel, Gasoline, and Wetted Salt
✓	926-30	Contaminated Soil Services
✓	929-74	Tanks: Mobile, Portable, Stationary, Storage, etc., Including Relining Maintenance and Repair
✓	968-78	Tank Installation, Removal, Disposal, and Related Services, Including Septic and Underground Type

Therefore, unless A&J Construction added itself to the bid holder list, it would not have automatically received all notifications related to the two subject Bid Solicitations.<sup>7</sup> The responsibility of registration and the selection of commodity codes 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. I encourage A&J Construction to revisit the commodity codes it has registered for in *NJSTART* to capture all codes related to the work it is interested in providing to the State, to ensure it receives timely notice of upcoming bid solicitation deadlines.

<sup>6</sup> Bid Solicitation T0777 Snow Plowing and Spreading Services was a reprocurement and combination of two separate contracts, T-0777 Snow Plowing & Hauling Services Statewide for the N.J.D.O.T. (previously procured under RFP 13-X-22591, 13-X-22747 (Rebid for Open Snow Sections), and 13-X-22837 (Rebid #2 for Open Snow Sections)) and T-1415 Spreading Services for Deicing Chemicals and Abrasives (previously procured under RFP numbers 13-X-22592, 13-X-22748 (Rebid for Open Snow Sections) and 13-X-22838 (Rebid #2 for Open Snow Sections)). It is noted that both pre-existing contracts were procured using NIGP code 968-72, the same NIGP code as the current Bid Solicitation T0777 Snow Plowing and Spreading Services.

<sup>7</sup> From a functionality perspective, if a Vendor {Bidders} is logged into the *NJSTART* system it will automatically be given the opportunity to be added to the bid holder list for any Bid Solicitation it opens in the system, even where the Vendor {Bidder} is not registered for the Bid Solicitation's underlying commodity code(s). Being added to the bid holder list ensures the Vendor {Bidder} will automatically receive all notifications for that Bid Solicitation.

Although A&J Construction states that it was confused by the posting of Bid Amendment #1 to Bid Solicitation T2924 Snow Plowing Services by Area, that Bid Amendment posted questions and answers expressly advising Vendors {Bidders} that there were two separate procurements underway for snow plowing services and that each had a separate Quote submission due date. Furthermore, I note that the Bureau received more than 135 Quotes submitted in a timely fashion, the earliest of which was uploaded on February 2, 2018. Accordingly, I cannot conclude that procurement of Bid Solicitation T0777 Snow Plowing and Spreading Services was unfair or misleading. As stated in the Division's regulations, Vendors {Bidders} must "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).

While the Division appreciates A&J Construction's previous service, in light of the findings set forth above, I must deny your protest. 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.

Thank you for registering your company with *NJSTART* at [www.njstart.gov](http://www.njstart.gov), the State of New Jersey's eProcurement system. I look forward to your company's continuing interest in doing business with the State of New Jersey and again encourage you to revisit the commodity codes A&J Construction is registered for in *NJSTART*.

Sincerely,



Maurice A. Griffin  
Acting Director

MAG: REG

c: P. Michaels  
L. Spildener  
M. Groninger