



State of New Jersey

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

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August 16, 2017

Via Email [pmateri@brianhoskinsford.com] and regular USPS Mail

Paul Mater, Fleet Manager
Brian Hoskins Ford
2601 East Lincoln Highway
Coatesville, PA 19320

RE: Protest of Notice of Intent to Award
Solicitation #17DPP00105: Universal Truck, 19,500 lb. GVWR Crew Cab & Chassis, DRW,
4WD, with Various Bodies (T-3063)

Dear Mr. Mater:

This letter is in response to your email of July 31, 2017, on behalf of Brian Hoskins Ford (hereinafter "Brian Hoskins") to the Division of Purchase and Property's (hereinafter "Division") Hearing Unit, in which Brian Hoskins protests the Notice of Intent to Award (hereinafter "NOI") issued by the Division's Procurement Bureau (hereinafter "Bureau"). Specifically, Brian Hoskins protests the award of price lines 4, 5, 6, 7, 9 and 10 to Route 23 Auto Mall (hereinafter "Route 23") alleging that it was unable to verify that Valley, Route 23's supplier, is a manufacturer of any type of truck equipment. Brian Hoskins asks that the Bureau reevaluate the award of these price lines.

By way of background, this Bid Solicitation {Request for Proposal} #17DPP00105: Universal Truck, 19,500 lb. GVWR Crew Cab & Chassis, DRW, 4WD, with Various Bodies (T-3063) (hereinafter "RFP"), was issued by the Procurement Bureau (hereinafter "Bureau") on February 28, 2017, on behalf of the New Jersey Department of Transportation (hereinafter "NJDOT") to solicit Quotes {Proposals} (hereinafter "Proposals") for a Universal Truck, 19,500 lb. GVWR Crew Cab & Chassis, DRW, 4WD, with Optional Hook lift System, Various Bodies, Salt Spreader, Snow Plow & Accessories. RFP § 1.1 *Purpose and Intent* and RFP § 2.3 *Blanket P.O. {Contract} Specific Definitions/Acronyms*. There are sixteen (16) price lines which are grouped to create a single award. RFP § 1.1 *Purpose and Intent*. Vendors {Bidders} (hereinafter "Bidders") must bid on all price lines, 1 through 16, to be eligible for a Master Blanket Purchase Order (Blanket P.O.) {Contract} (hereinafter "Contract") award. *Ibid.* The intent of the Bureau was to award one Contract to that Bidder whose proposal was most advantageous to the State, price and other factors considered. *Ibid.* The State intends to extend the contract awarded to the Division's Cooperative Purchasing Program participants. *Ibid.*

On April 12, 2017, the Division's Proposal Review Unit opened the five (5) Proposals received by the submission deadline. One proposal was rejected for failure to include a signed and completed *Disclosure of Investment Activities in Iran Form*. The remaining four (4) Proposals were then forwarded

to the Bureau for evaluation. The Bureau then conducted an evaluation of the Proposals consistent with the requirements of RFP § 6.6 *Evaluation Criteria* which states:

The following criteria will be used to evaluate Quotes {Proposals} received in response to this Bid Solicitation {RFP}. The criteria are not necessarily listed in order of importance:

- a. Group Price (The sum of price lines one (1) through fourteen (14).)
- b. Experience of the Vendor {Bidder}
- c. The Vendor's {Bidder's} documented past performance under similar Blanket P.O.s {Contracts}, including, but not limited to, the Division's Vendor {Contractor} performance database.

As part of the evaluation process, on June 22, 2017, the Bureau wrote to Route 23 seeking a clarification as permitted by RFP § 6.5 *Oral Presentation and/or Clarification of Quote {Proposal}* which states in pertinent part:

After the Quotes {Proposals} are reviewed, one, some or all of the Vendors {Bidders} may be asked to clarify certain aspects of its Quote {Proposal}. A request for clarification may be made in order to resolve minor ambiguities, irregularities, informalities or clerical errors. Clarifications cannot correct any deficiencies or material omissions, or revise or modify a Quote {Proposal}, except to the extent that correction of apparent clerical mistakes results in a modification.

Specifically, the Bureau wrote to Route 23 stating:

...Bid Solicitation {RFP} section 4.4.3.3 *Product Literature/Manufacturer's Specifications* states:

The Vendor {Bidder} must submit manufacturer's specification sheets for all items listed on price line items one (1) through fourteen (14). All submittals should be properly labeled, showing the Vendor's {Bidder's} name and Quote {Proposal} number. The Vendor {Bidder} should also provide manufacturer's drawing, schematics and blueprints, if available.

If a Vendor {Bidder} does not provide the manufacturer's specifications sheet for price line item one (1) through fourteen (14), the State reserves the right to request such information from the Vendor {Bidder}. The Vendor {Bidder} must respond to such request by providing all requested information within forty-eight (48) hours. If the information requested is not received within forty-eight (48) hours, the Quote {Proposal} shall be rejected.

Accordingly, please submit all product literature and manufacturer's specification sheets specific to Sections 3.4.3 through 3.4.10 (Price line items 3 through 10). If manufacturer's specification sheets are not published because the bodies offered for Section 3.4.4 through 3.4.10 are custom, fabricated bodies, specific to the Bid Solicitation {RFP}

specification requirements, please confirm the same on company letterhead.

[Bureau's June 22, 2017, clarification letter to Route 23, *emphasis in the original.*]

On June 26, 2017, Route 23 responded to the Bureau stating “[f]or section 3.4.3 through 3.4.10 (price lines 3 through 10) Manufacturer’s specification sheets are not published because the bodies offered for these sections are custom, fabricated bodies, specific to the Bid Solicitation {RFP} specification requirements.” See, Route 23’s June 26, 2017 letter in response to the Bureau’s clarification request.

On July 20, 2017, the Bureau issued the NOI indicating its intent to award a contract to Route 23 for all price lines.

On July 25, 2017, Brian Hoskins submitted a protest to the Division stating:

We appreciated today’s opportunity to review bids for the universal hook lift truck and accessories. We feel it necessary to protest this evaluation and award to RT 23 Auto Mall. We are unable to identify Valley as a manufacturer of any type of truck equipment. Please see the attached letter from DeJana Truck Eq. Co. We recommend an evaluation of Valley as far as their product and the durability of the same.

Additionally, with its protest, Brian Hoskins included an email from DeJana Truck and Utility Equipment which notes the following:

As per our conversation and review of the bid at the State Treasury Department this morning I came back to my home office to do research on the bodies that Route 23 Auto mall did not provide literature for items: (PL4), (PL5), (PL6), (PL7), (PL9), [and] (PL10)

These are products manufactured by Valley, I first started by looking at both Cliffside body and Palfinger to see if either of these Equipment companies had product lines by a Valley Manufacturer which I could not find on either ones website. With no luck there I googled Valley Dump Bodies coming up with companies in Oregon and Boston NY. The company in Boston NY works closely with Godwin, Galion and a couple other dump manufacturers, Cliffside is Godwin Distributor. It does not appear that this company manufacturers bodies the platform is Tafco Equipment and the dump bodies are Brandon Manufacturing.

I keep coming up with no viable company that is Valley. I would ask that they have to provide literature, engineer’s drawings with specifications just to make sure that they are meeting the bid specifications, there were no exceptions taken. I will continue to look since the protest has to be in by 5 pm this afternoon. Also I looked at the bid again I did not see where it calls for a lump sum award, and since all of these products cannot be used at the same time they should be looking at the cost of the base [vehicles] in lieu of the entirety of all items.

In consideration of Brian Hoskins’s protest, I have reviewed the record of this procurement, including the RFP, the Proposals, submitted, the Bureau’s Recommendation Report, and 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.

In its protest, Brian Hoskins' alleges that Valley is not a manufacturer of equipment associated with this procurement. In response to the protest, Route 23 advised the Division's Hearing Unit that "Valley Enterprises Container is a viable company in business since 1991. Valley has been and continues to be a component supplier to Cliffside Body Company. <http://valleyenterprisecontainer.com/index.html>." Route 23's July 30, 2017 letter. The Hearing Unit's independent review of the Valley Enterprises Container website reveals that it is manufacturer of standard and custom built containers, for example – roll off, hook lift, front load and rear load styles similar to that sought by the RFP. As previously noted, in response to the Bureau's clarification request, Route 23 advised that the Manufacturer's specification sheets are not available because the bodies to be provided by Valley in response to price lines 4, 5, 6, 7, 9 and 10 will be custom built the meet the specifications of the RFP. Based upon the information provided, I find that Route 23's supplier, Valley, is a manufacturer of the type of truck equipment and accessories sought by the RFP; and therefore, Route 23's proposal is responsive to the specifications.

As to the issue of the durability of the products provide by Valley, I note that RFP § 3.5.4 permits the Using Agency to inspect all vehicles prior to final acceptance. Specifically, the RFP provides:

3.5.4.3 Pre-acceptance Inspections: The State Using Agency reserves the right to inspect the [vehicle] at the Vendor's {Contractor's} facility or require that the Vendor {Contractor} make the [vehicle] available for inspection at the agency site. If, during inspection at the agency site, it becomes apparent that corrections/alterations must be made to the [vehicle] to comply with the Blanket P.O. {Contract} specifications which cannot be accomplished at the State Using Agency facility, the [vehicle] will be rejected and the Vendor {Contractor} must transport the [vehicle] to its facility at no expense to the agency. After the Vendor {Contractor} corrects the deficiencies, the Vendor {Contractor} must re-deliver the [vehicle] to the State Using Agency for re-inspection at the expense of the Vendor {Contractor}.

...

3.5.4.12 Inspected [vehicles] which do not comply with the Blanket P.O. {Contract} requirements will be rejected. The Vendor {Contractor} must correct all rejected [vehicles] and the corrected [vehicles] must be presented for re-inspection within ten (10) working days. The Using Agency may cancel the purchase order if the Vendor {Contractor} fails to correct any problem.

Accordingly, if a vehicle provided by Route 23 contains any deviation from the specifications, the Using Agency has the ability to reject the vehicle.

In its protest, Brian Hoskins requests that Route 23 be required "to provide literature, engineer's drawings with specifications just to make sure that they are meeting the bid specifications." I note that in response to this RFP, Brian Hoskins, like Route 23, also proposed to utilize custom built items for price lines 4, 5, 6, 7 and 9; and similarly did not provide any manufacturer's specification sheets for the products offered in response to these price lines. As the products in question would be custom built, neither bidder would be able to provide manufacturer's specification sheets.

Finally, Brian Hoskins asserts that there was no basis in the RFP for making a lump sum award and therefore, the proposals submitted should have been evaluated based upon the proposal prices for the base vehicle – the crew cab and chassis. To the contrary, RFP § 6.6 *Evaluation Criteria* advised Bidders that Proposals would be evaluated based upon, amongst other things, “Group Price (The sum of price lines one (1) through fourteen (14).)” Therefore, all Bidders were put on notice of the basis for the evaluation.

Based upon the foregoing, I sustain the July 20, 2017 NOI. This is my final agency decision with respect to the protest submitted by Brian Hoskins Ford.

Thank you for your interest in doing business with the State of New Jersey and for registering your company with [NJSTART](http://www.njstart.gov) at www.njstart.gov, the State of New Jersey’s new eProcurement system.

Sincerely,

A handwritten signature in blue ink that reads "maguff". The signature is stylized and cursive.

Maurice A. Griffin
Acting Director

MAG: RUD

c: J. Kerchner
K. Thomas
D. Warren