



# State of New Jersey

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

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September 5, 2018

Via Electronic Mail [[sbc\\_inc@verizon.net](mailto:sbc_inc@verizon.net)] and USPS Regular Mail

Frank J. Sacco, President  
Scrapple Brothers, Inc.  
786 North Third Street  
Hammonton, NJ 08037

Re: I/M/O Bid Solicitation #18DPP00205 Scrapple Brothers, Inc.  
T0777 Snow Plowing and Spreading Services  
Protest of Notice of Intent to Award

Dear Mr. Sacco:

This letter is in response to your correspondence of August 31, 2018, on behalf of Scrapple Brothers, Inc. (Scrapple) to the Division of Purchase and Property's Hearing (Division) Unit. In that correspondence Scrapple 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)<sup>1</sup> to several Vendors {Bidders} for Bid Solicitation #18DPP00205 - T0777 Snow Plowing and Spreading Services (Bid Solicitation).

## BACKGROUND

By way of 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

<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.

<b>NJSTART Term</b>	<b>Statutory, Regulatory and/or Legacy Term</b>
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

{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:

**Snow Plowing and Hauling Services:**

- 1<sup>st</sup> – Vendors {Bidders} supplying all required Class A trucks with equipment;
- 2<sup>nd</sup> – Vendors {Bidders} supplying all required Class A trucks without equipment;
- 3<sup>rd</sup> – Vendors {Bidders} supplying all required Class B trucks with equipment;

- 4<sup>th</sup> – Vendors {Bidders} supplying all required Class B trucks without equipment;
- 5<sup>th</sup> – Vendors {Bidders} supplying fewer than the required number of Class A trucks with equipment; and
- 6<sup>th</sup> – Vendors {Bidders} supplying fewer than the required number of Class B trucks without equipment.

For example, Vendors {Bidders} submitting responsive Quotes {Proposals} and able to supply all required Class A trucks with Vendor {Bidder} owned equipment, will be awarded a Blanket P.O. {Contract} before the Vendors {Bidders} supplying Class A trucks without equipment.

**Spreading Services:**

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

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.

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 and spreading sections would be awarded based upon the Phase One submitted Quotes. The preliminary notice also provided Vendors {Bidders} the opportunity to withdraw a submitted Quote or a preliminarily awarded price line. Four Vendors {Bidders} withdrew a submitted Quotes for some or all of the snow plowing and/or and spreading sections originally submitted during Phase One. Thereafter, the Bureau commenced Phase Two to solicit Quotes pricing for those snow plowing and spreading sections for which no responsive Quotes had been received. On June 11, 2018, requests for Phase Two pricing were sent to all Vendors {Bidders} who submitted Quotes which were deemed initially responsive. Phase Two Quote submission pricing was due to the Bureau on June 18, 2018 at 2:00 p.m.

After the review and evaluation of all Quotes received in response to the Bid Solicitation Phase Two was completed, the Bureau issued a second preliminary notice. That second preliminary notice advised the Vendors {Bidders} which snow plowing and spreading sections would be awarded based upon the Phase One and Phase Two submitted Quotes. The second preliminary notice also provided Vendors {Bidders} the opportunity to withdraw a submitted Quote or a preliminarily awarded price line. Thereafter, the Bureau commenced Phase Three to solicit Quote pricing for those snow plowing and spreading sections for which no responsive Quotes had been received in either Phase One or Phase Two. Requests for Phase Three pricing were sent to all responsive Vendors {Bidders} on June 26, 2018 with a Phase Three Quote submission due date of June 28, 2018 at 2:00 p.m.

After the review and evaluation of all Quotes received in response to the Bid Solicitation Phase Three was completed, the Bureau issued a third preliminary notice. That third preliminary notice advised the Vendors {Bidders} which snow plowing and spreading sections would be awarded based upon the Phase One, Phase Two and Phase Three submitted Quotes. The third preliminary notice also provided Vendors {Bidders} the opportunity to withdraw a submitted a Quote or a preliminarily awarded price line.

Thereafter, on August 22, 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.<sup>2</sup> On August 24, 2018, the NOI was issued advising all Vendors {Bidders} that it was the State's intent to award a Blanket P.O.s consistent with the Bureau's Recommendation Report.

On August 31, 2018, the Division received Scrapple's protest challenging the intended Blanket P.O. awards. Specifically, Scrapple protests the award of price line 367 stating:

We request further evaluation of the award of referenced price line. Scrapple Brothers Construction, Inc. has worked on the referenced area for the past several decades under various contract-both snow plowing and spreading services. It is our understanding that our efforts have always been deemed acceptable, if not better, even with the small trucks. Scrapple Brothers Construction, Inc. bid \$185 per hour for two trucks on the referenced Price Line. This is \$35 less than the bid potentially being awarded.

In consideration of Scrapple'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. Specifically, Bid Solicitation Section 6.7.1 *Vendor's {Bidder's} Price Schedule* states:

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<sup>2</sup> The list of Vendors {Contractors} who are recommended to receive Blanket P.O. awards are listed in the attachment to the Bureau's August 22, 2018 Recommendation Report.

**Spreading Services:**

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

Here, price line 367 required five (5) Class R Trucks.

LINE NO	DESCRIPTION
367	SPREADING SERVICES -- D.O.T. REGION: SOUTH CREW #: 421 BUENA YARD 722 ROUTE 40 EAST HARDING HWY MP 35, BUENA, NJ  NUMBER OF TRUCKS REQUIRED: CLASS R - 5

With its submitted Quote, Scrapple included Attachment #1 – *Vendor Bidder Equipment Form*, indicating that it had two (2) Class P, with a V Box and no wetting system which would be available for use in providing the services required for this spreading section.

ATTACHMENT 1 SNOW PLOWING AND SPREADING SERVICES-NJDOT BID SOLICITATION {RFP} 18DPP00205 REVISED - VENDOR {BIDDER} EQUIPMENT FORM	
The Vendor {Bidder} must complete and submit one (1) form for each Section Offered	
Vendor {Bidder} Name: Scrapple Brothers Construction, Inc.	
<b>SNOW PLOWING SERVICES ONLY</b>	
Snow Section:	_____
Number of Class A Trucks	_____
Number of Class B Trucks	_____
Are you able to provide your own plows?	YES ___ or NO ___
If yes, how many?	_____
<b>SPREADING ONLY</b>	
Crew #:	<u>421 Buena Yard</u>
Number of Class P Trucks	<u>2</u>
Number of Class Q Trucks	_____
Number of Class R Trucks	_____
Type of spreading equipment	Tailgate mounted, Mid-Body, or <u>V Box</u>
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 ___

With respect to the award of price line 367, the Recommendation Report states:

Price Line #367 - the following Vendors {Bidders} submitted responsive Quotes; however, the Quote submitted by AIT is considered to be the overall lowest cost responsive, responsible Quote, most advantageous to the State price and other factors considered. This Section required five (5) Class R Trucks. Therefore, for the reason stated AIT is recommended for award of this price line.

- M&M - offered seven (7) Tailgate Mounted Class R Trucks, more than the quantity required for this Section, at a rate of \$240 per hour;
- Sal Jacobs Plumbing & Heating (Sal Jacobs) - offered three (3) V Box Class P Trucks, less than the quantity required and incorrect truck class;
- Scrapple Brothers - offered two (2) V Box Class P Trucks, less than the quantity required and incorrect truck class; and
- AIT - offered five (5) Tailgate Mounted Class R Trucks, the quantity required for this Section, at a rate of \$220 per hour.

While Scrapple may have proposed a lower hourly rate than that of the intended awardee, Scrapple's Quote was for fewer trucks than the quantity required by the price line and was for a different class of truck than that required. Again, as noted above, price line 367 required five (5) Class R Trucks, Scrapple proposed two Class P Trucks. As noted in Bid Solicitation § 6.7.1 *Vendor's {Bidder's} Price Schedule*, a Vendor {Bidder} supplying all required Class R Trucks will awarded a Blanket P.O. before a Vendor {Bidder} supplying a Class Q or a Class P Truck. Here, the Bureau's recommendation for award was consistent with the Bid Solicitation evaluation criteria. Bid Solicitation § 6.7.1 *Vendor's {Bidder's} Price Schedule*.

**CONCLUSION**

While I have no reason to dispute Scrapple's statement that it "efforts have always been deemed acceptable," based upon the foregoing, I find no reason to disturb the Bureau's recommendation. Accordingly, I sustain the August 24, 2018 Notice of Intent to Award. This is my final agency decision with respect to the protest submitted by Scrapple.

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](http://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,

A handwritten signature in blue ink, appearing to read "MAGriffin".

Maurice A. Griffin  
Acting Director

MAG: RUD

c: P. Michaels  
L. Spildener  
M. Groninger