



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR
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February 28, 2020

Via Electronic Mail [ultimatelearning1@gmail.com] and USPS Regular Mail

Michael Steele
Ultimate Learning Perspectives LLC
1160 East 38 Street
Brooklyn, New York, 11210

Re: I/M/O Bid Solicitation #20DPP00418 Ultimate Learning Perspectives LLC
Protest of Notice of Proposal Rejection
T2625 - Statewide Evaluation of the 21st Century Community Learning Centers Program

Dear Mr. Steele:

This letter is in response to your email of February 14, 2020, on behalf of the Ultimate Learning Perspectives LLC (Ultimate Learning) which was received by the Division of Purchase and Property's (Division) Hearing Unit. In that email, Ultimate Learning protests the Notice of Proposal Rejection issued by the Division's Proposal Review Unit on February 7, 2020, for Bid Solicitation #20DPP00418- T2625 - Statewide Evaluation of the 21st Century Community Learning Centers Program (Bid Solicitation). The record of this procurement reveals that Ultimate Learning's Quote was rejected for failing to include pricing information with its submitted Quote¹.

By way of background, on November 15, 2019, the Division's Procurement Bureau (Bureau) issued the Bid Solicitation on behalf of the New Jersey Department of Education (NJDOE). Bid Solicitation § 1.1 *Purpose and Intent*. The purpose of this Bid Solicitation is to solicit Quotes in order to engage a public or private organization or Institutes of Higher Education (IHE) to conduct a statewide evaluation of the 21st Century Community Learning Centers (21st CCLC) program. *Id.* The intent of this Bid Solicitation is to award a Master Blanket Purchase Order (Blanket P.O.) to that responsible Vendor {Bidder} whose Quote, conforming to this Bid Solicitation was most advantageous to the State, price and other factors considered. *Ibid.*

On February 6, 2020, the Division's Proposal Review Unit opened Quotes from three Vendors {Bidders} which were received by the submission deadline of 2:00 pm eastern time. After conducting a review of the Quotes received, the Division's Proposal Review Unit issued a Notice of Proposal Rejection to Ultimate Learning for missing pricing information.

¹ Although not a cause for rejection at the time of the bid opening, the Division's records indicate that Ultimate Learning was sent a warning letter advising it that the company was not business-registered by the Division of Revenue of the Department of the Treasury pursuant to N.J.S.A. 52:32-44.1(b). With the protest, Ultimate Learning included copy of its Business Registration Certificate issued on January 7, 2020.

In response to the Notice of Proposal Rejection, on February 14, 2020, Ultimate Learning sent an email along with attached Price Sheet, to the Division's Hearing Unit stating:

I am fairly new to this process. I have read the solicitations but my interpretation of the pricing was that we should enter 1.0 in each category as shown in the attachment.

I have also attached my registration certificate which was completed prior to submitting the bid.

Please advise for further processing.

In consideration of Ultimate Learning's protest, I have reviewed the record of this procurement, including the Bid Solicitation, Ultimate Learning's Quote and protest, 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. Those regulations provide in relevant part that:

- (a) In order to be eligible for consideration for award of contract, the bidder's proposal shall² conform to the following requirements or be subject to designation as a non-responsive proposal for non-compliance:

...

6. Include all RFP-required pricing information.

[N.J.A.C. 17:12-2.2(a), *emphasis added*.]

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

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.

² "Shall or Must – Denotes that which is a mandatory requirement. Failure to meet a mandatory material requirement will result in the rejection of a Quote {Proposal} as non-responsive." Should or May – "Denotes that which is permissible or recommended, not mandatory." Bid Solicitation § 2.2 *General Definitions*.

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 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 and/or (609) 341-3500.

The Division 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.**

Among those attachments required to be submitted with the Quote is the State-Supplied Price Sheet discussed in Bid Solicitation Section 4.4.5 *State-Supplied Price Sheet* which states "[t]he Vendor {Bidder} must submit its pricing using the State-Supplied Price Sheet accompanying this Bid Solicitation and located on the "Attachments" Tab. Vendors {Bidders} may refer to the Quote Reference Guide (QRG) "Submit a Quote" for instructions detailing how to submit a [NJSTART](#) electronic Quote. QRGs are located on the [NJSTART](#) Vendor Support Page." See also, Bid Solicitation Section 4.4 *Quote Content*.

To assist Vendors {Bidders} in completing the State-Supplied Price Sheet, the Bid Solicitation further advised in part:

Vendors {Bidders} must enter a full-fixed all-inclusive annual rate for Blanket P.O. years one (1), two (2), three (3), four (4), five (5), and six (6). Failure to submit all price lines may result in rejection of the Quote on the grounds that it is non-responsive. Each Vendor {Bidder} is required to hold its prices firm through the issuance of the Blanket P.O.

In the event that a Vendor {Bidder} using **NJSTART** to submit a Quote uploads a State-Supplied Price Sheet and completes the "Items" Tab in **NJSTART** (instead of entering a Unit Cost of \$1.00 as instructed), the State-Supplied Price Sheet will govern.

[Bid Solicitation § 4.4.5.2 *State-Supplied Price Sheet Instructions.*]

The review of the record reveals that Ultimate Learning submitted three (3) Quotes in response to this Bid Solicitation:

1. Quote # 00003832, submitted on 01/07/2020 07:51:59 PM
2. Quote # 00003833, submitted on 01/07/2020 07:31:29 PM
3. Quote # 00003834, submitted on 01/03//2020 05:03:11 AM

Quote # 00003832, contained the following attachments:

Quote 00003832 - ULTIMATE LEARNING PERSPECTIVES						
General Items Questions Subcontractors Terms & Conditions Attachments(6) Evaluations Preference Reminders Summary						
Files						
Name	Description	Confidential	Order	Attached By	Attached Date	
DisclosureofInvestigations.pdf (view details)	DISCLOSURE INVESTIGATION	<input checked="" type="checkbox"/>	0	Michael Steele	01/04/2020	
DisclosureofInvestigations.pdf (view details)	DISCLOSURE INVESTIGATION	<input checked="" type="checkbox"/>	0	Michael Steele	01/04/2020	
DisclosureofInvestmentActivitiesinIran-2.pdf (view details)	Disclosure Iran	<input checked="" type="checkbox"/>	0	Michael Steele	01/04/2020	
DisclosureofInvestmentActivitiesinIran-3.pdf (view details)	Disclosure Iran	<input checked="" type="checkbox"/>	0	Michael Steele	01/04/2020	
DisclosureofInvestigations-1.pdf (view details)	DISCLOSURE INVESTIGATION	<input checked="" type="checkbox"/>	0	Michael Steele	01/04/2020	
T2625 Bid Solicitation 11-15-19 (1).docx (view details)	Iran Disclosure	<input checked="" type="checkbox"/>	0	Michael Steele	01/04/2020	
Forms						
No Form Attachments						

Quote # 00003833 contained the following attachments:

Quote 00003833 - ULTIMATE LEARNING PERSPECTIVES						
General Items Questions Subcontractors Terms & Conditions Attachments(6) Evaluations Preference Reminders Summary						
Files						
Name	Description	Confidential	Order	Attached By	Attached Date	
OFFER DISCLOSURE (view details)	DISCLOSURE INVESTIGATION	<input checked="" type="checkbox"/>	0	Michael Steele	01/04/2020	
RESUME888DIRECTOR.docx (view details)	RESUME	<input checked="" type="checkbox"/>	0	Michael Steele	01/07/2020	
DisclosureofInvestmentActivitiesinIran_1.pdf (view details)	DISCLOSURE	<input checked="" type="checkbox"/>	0	Michael Steele	01/07/2020	
OFFERandAcceptance.pdf (view details)	OFFER ACCEPTANCE	<input checked="" type="checkbox"/>	0	Michael Steele	01/07/2020	
OfferandAcceptance.pdf (view details)	ONLINE TAX EXEMPTION	<input checked="" type="checkbox"/>	0	Michael Steele	01/07/2020	
OfferandAcceptance.pdf (view details)	ONLINE TAX EXEMPTION	<input checked="" type="checkbox"/>	0	Michael Steele	01/07/2020	
Forms						
No Form Attachments						

Quote # 00003834 contained the following attachment:

Quote 00003834 - ULTIMATE LEARNING PERSPECTIVES						
General Items Questions Subcontractors Terms & Conditions Attachments(1) Evaluations Preference Reminders Summary						
Files						
Name	Description	Confidential	Order	Attached By	Attached Date	
RESUMEBA.docx (View details)		Yes	0	Michael Steele	01/03/2020	
Forms						
No Form Attachments						

In connection with this protest, the Hearing Unit undertook an independent review of all the attachments submitted by Ultimate Learning in its three Quotes. The review revealed that Ultimate Learning did not attach a Price Sheet to any of its submitted Quotes.

Additionally, in connection with the review of this protest, the Hearing Unit also undertook a review of the documents attached to Ultimate Learning’s *NJSTART* Vendor Profile. That review revealed that Ultimate Learning attached the required Price Sheet to its *NJSTART* Vendor Profile rather than to the Attachments Tab of its submitted Quotes as directed by the Bid Solicitation. As shown on the screen shot below, Ultimate Learning attached the Price Sheet to the Vendor Profile attachments on January 16, 2020 at 08:57:19AM, before the Quote opening deadline.

Vendor Profile - ULTIMATE LEARNING PERSPECTIVES						
Organization Information Users Address Commodity Codes and Services Regions Terms & Categories Attachments Vendor Performance						
Attachments Information						
Profile Attachments						
Download	File	Description	Size	Uploaded By	Uploaded Date	
	OfferandAcceptancenew4.pdf		184,284 bytes	Michael Steele	01/11/2020 05:53:01 PM	
	DisclosureofInvestmentActivitiesIran_1-2.pdf	DISCLOSURE	342,620 bytes	Michael Steele	01/11/2020 06:06:24 PM	
	BUSINESS REGISTRATION CERT.jpg		2,662,573 bytes	Michael Steele	01/11/2020 06:28:26 PM	
	DisclosureofInvestmentActivitiesIran.pdf	DISCLOSURE IRAN	365,529 bytes	Michael Steele	01/11/2020 10:44:38 PM	
	DisclosureofInvestmentActivitiesIran08.pdf		342,620 bytes	Michael Steele	01/11/2020 10:53:53 PM	
	RESUME888DIRECTORNEW.docx		105,479 bytes	Michael Steele	01/14/2020 12:07:08 PM	
	DisclosureofInvestmentActivitiesIran08.pdf		191,167 bytes	Michael Steele	01/14/2020 06:09:39 PM	
	OwnershipDisclosure.pdf11.pdf	OWNERSHIP DISCLOSURE	307,147 bytes	Michael Steele	01/14/2020 06:29:06 PM	
	T2625 Price Sheet 11-15-19.xlsx		11,014 bytes	Michael Steele	01/16/2020 08:57:19 AM	
	COVER LETTER DIRECTPRIN.docx		104,682 bytes	Michael Steele	02/01/2020 05:52:35 PM	
Forms						
No Form Attachments						

Here, because Ultimate Learning did submit a Quote, the Division can accept the Price Sheet attached to the *NJSTART* Vendor Profile as part of its submitted Quote. However, I note that the inclusion of the documents on the *NJSTART* Vendor Profile page does not by itself create or constitute a properly submitted Quote. When a Quote is properly created and submitted through the *NJSTART* eProcurement system, following the instructions set forth in the QRG entitled “Submit a Quote”, the Division automatically

receives the Quote after the opening date and time. However, when a Vendor makes a change to, or attaches documents to the **NJSTART** Vendor Profile, the Division not receive any notice of this action as Vendors {Bidders} are free to make changes and additions to the **NJSTART** Vendor Profile for any reason at any time. There are over 31,000 Vendors registered in the **NJSTART** eProcurement system. The Division does not review the over 31,000 **NJSTART** Vendor Profile pages each time a Quote submission date has passed.

Accordingly, I overturn the decision of the Proposal Review Unit. Ultimate Learning's Quote will be forwarded to the Procurement Bureau for review and evaluation, consistent with the requirements of the Bid Solicitation. I caution Ultimate Learning to be mindful of the Quote submission requirements in the future. The responsibility for ensuring that all necessary forms and other submittals are uploaded into **NJSTART** necessarily and appropriately rests solely with the Vendor {Bidder}. Bid Solicitation § 1.4.2 *Vendor {Bidder} Responsibility*. To aid Vendors {Bidders} in the procedural requirements for Quote submission, the Bid Solicitation advised Vendors {Bidders} to review the Division's QRGs for assistance on how to submit a Quote.

4.3.1 **NJSTART** SUBMISSION OF QUOTE

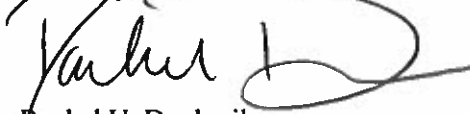
Vendors {Bidders} may refer to the "Vendor Registration" and "Submit a Quote" QRGs for additional instructions detailing how to enroll in **NJSTART** and submit a **NJSTART** electronic Quote. QRGs are located on the **NJSTART Vendor Support Page**. If the Vendor {Bidder} submits both a **NJSTART** and a hard copy of the Vendor's {Bidder's} Quote, the **NJSTART** Quote will prevail in the event of a discrepancy between the electronic and paper versions.

The "Submit A Quote" QRG provides Vendors {Bidders} with step-by-step instructions, with screenshots, on how to locate a Bid Solicitation and how to submit a Quote in response to that Bid Solicitation.

This is my final agency decision.

Thank you for your company's interest in doing business with the State of New Jersey and for registering your business with **NJSTART** at www.njstart.gov, the State of New Jersey's eProcurement system.

Sincerely,



Rachel U. Doobrajh
Acting Chief Hearing Officer

RUD: RD

c: G. Griffith
S. Fletcher
L. Spildener
M. Tangliaferri
D. Rodriguez
A. Nelson