



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
PROCUREMENT BUREAU  
33 WEST STATE STREET  
P. O. BOX 039  
TRENTON, NEW JERSEY 08625-0039  
<https://www.njstart.gov>

PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

ELIZABETH MAHER MUOIO  
*State Treasurer*

MAURICE A. GRIFFIN  
*Acting Director*

April 30, 2021

Via Electronic Mail Only [absglasstrenton@gmail.com](mailto:absglasstrenton@gmail.com)

Carlos Casanas  
ABS Auto Glass, LLC  
241 Hamilton Ave  
Trenton, NJ 08609

Re: IMO Bid Solicitation #20DPP00496 ABS Auto Glass LLC  
Protest of Notice of Intent to Award  
T0084 Automotive Glass Parts and Windshield Repair/Replacement

Dear Mr. Casanas:

This final agency decision is in response to your emails of April 21, 2021 and April 28, 2021, on behalf of ABS Auto Glass LLC (ABS) which were received by the Division of Purchase and Property's (Division) Hearing Unit. In those emails, ABS protests the determination that it was not eligible for an award because it was not registered as a Small Business Enterprise (SBE) on the Quote opening date. ABS requests that Division reconsider the determination as it has since registered as a Small Business Enterprise.

By way of background, on October 30, 2020, the Division's Procurement Bureau (Bureau) issued the Bid Solicitation #20DPP00496 - T0084 Automotive Glass Parts and Windshield Repair/Replacement (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*. The Division intended to award one (1) or more Blanket P.O.s per Region/Location (North Region, Central Region, South Region, Motor Pool, and State Police) for each of the specified service categories identified in Bid Solicitation Section 1.2.1 *Region and Agency Location Information*. There were no minimum or maximum number of awardees. Bid Solicitation § 7.2 *Final Blanket P.O. Award*.

This Bid Solicitation was designated as a full Small Business Set-Aside. Bid Solicitation § 1.1 *Purpose and Intent*. N.J.S.A. 52:32-25 requires that, "When a contract or portion thereof has been designated as a set-aside, invitations for bids shall be confined to businesses designated by the department [Division of Revenue and Enterprise Services (DORES)] as appropriate for the set-aside and bids from other bidders shall be rejected." *Emphasis added.* Consistent with the statute, the Bid Solicitation included the following instructions regarding the Small Business Set-Aside requirement:

Pursuant to the provisions of N.J.S.A. 52:32-17 and N.J.A.C. 17:13 this is a full Set-Aside Blanket P.O. for **Category I, II, or III** for Small Businesses.

The Vendor {Bidder} must be registered as a qualifying small business with the Division of Revenue and Enterprise Services, Small Business Registration and M/WBE Certification Services Unit by the date the Quote is received and opened. Evidence that the Vendor {Bidder} has registered as a small business should be submitted with the Quote. Vendors {Bidders} should verify its Small, Minority, Veteran, and Women Owned Business Certification status on the “Maintain Terms and Categories” Tab within its profile in *NJSTART*. In the event of an issue with a Vendor’s {Bidder’s} Small, Minority, Veteran, and Women Owned Business Certification status, *NJSTART* provides a link to take corrective action.

....

\*\* IF THE VENDOR {BIDDER/CONTRACTOR} HAS PREVIOUSLY REGISTERED OR BEEN CERTIFIED AS A SMALL BUSINESS ENTERPRISE, THE VENDOR {BIDDER} SHOULD ENSURE IT IS REGISTERED AND THAT ITS REGISTRATION IS ACTIVE WITH THE DIVISION OF REVENUE AND ENTERPRISE SERVICES, SMALL BUSINESS REGISTRATION AND M/WBE CERTIFICATION SERVICES UNIT, PRIOR TO THE QUOTE OPENING DATE, TO BE ELIGIBLE FOR AWARD.

[Bid Solicitation Section 4.4.1.4 *Small Business Set-Aside Blanket P.O.*, emphasis added.]

The bidding community was cautioned that this Bid Solicitation was designed to address current requirements and therefore, Vendors {Bidders} should not rely upon or use data from the prior Blanket P.O. Bid Solicitation Section 1.2 *Background*. Potential Vendor(s) {Bidder(s)} were permitted to submit questions to the Bureau, using the Division’s *NJSTART* eProcurement system, by 2:00 pm eastern time on November 30, 2020. (Bid Solicitation Section 1.3.1 *Electronic Question and Answer Period*). The Bureau answered all questions received through the posting of Bid Amendment #1 on December 30, 2021. No questions were received regarding the Small Business Set-Aside requirement.

On December 30, 2020, the Division’s Proposal Review Unit opened six (6) Quotes received by the submission deadline.<sup>1</sup> 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*.

After completing its review and evaluation, on April 15, 2021, the Bureau prepared a Recommendation Report that recommended that a Blanket P.O.s be awarded as follows:

<b>North Region</b>	<b>Central Region</b>	<b>South Region</b>	<b>Central Motor Pool</b>	<b>State Police</b>
American Mobile Glass of NJ, Inc.	American Mobile Glass of NJ, Inc.	American Mobile Glass of NJ, Inc.	American Mobile Glass of NJ, Inc.	American Mobile Glass of NJ, Inc.
		Normans Auto Services	R&R Auto Body and Glass	Normans Auto Services

<sup>1</sup> Quotes were received from American Mobile Glass of NJ, Inc.; Normans Auto Services; R&R Auto Body and Glass; Tycar Automotive, LLC; ABS Auto Glass, LLC and Cumberland County Auto Glass.

With respect to the Quote submitted by ABS, the Recommendation Report noted that:

The Quote submitted by ABS was determined by the Bureau to be non-responsive to the mandatory requirements of the Bid Solicitation. ABS failed to be registered as a Small Business for Categories I, II, or III at the time of Quote opening in accordance with Section 4.4.1.4 of the Bid Solicitation. As specified by Section 4.4.1.4, "*Pursuant to the provision of N.J.S.A. 52:32-17 and N.J.A.C. 17:13, this is a full Set Aside Blanket P.O. for Categories I, II, or III for Small Business. The Vendor {Bidder} must be registered as a qualifying small business with the Division of Revenue and Enterprise Services, Small Business Registration and M/WBE Certification Services Unit by the date the Quote is received and opened.*" The Bureau verified the Vendor's {Bidder's} lack of qualifying Small Business Registration through the State's NJSAVI database and the Vendor's {Bidder's} NJSTART Vendor Profile.

The Bureau notes that available records show that ABS' was previously registered as a qualifying Small Business, but its registration was revoked on November 23, 2016.

Based upon the above determination, ABS's Quote was removed from consideration and not further evaluated.

[April 14, 2021 Recommendation Report, p. 2.<sup>2</sup>]

On April 19, 2021, the Bureau issued the NOI advising all Vendors {Bidders} that it was the State's intent to award Blanket P.O.s consistent with the April 14, 2021, Recommendation Report.

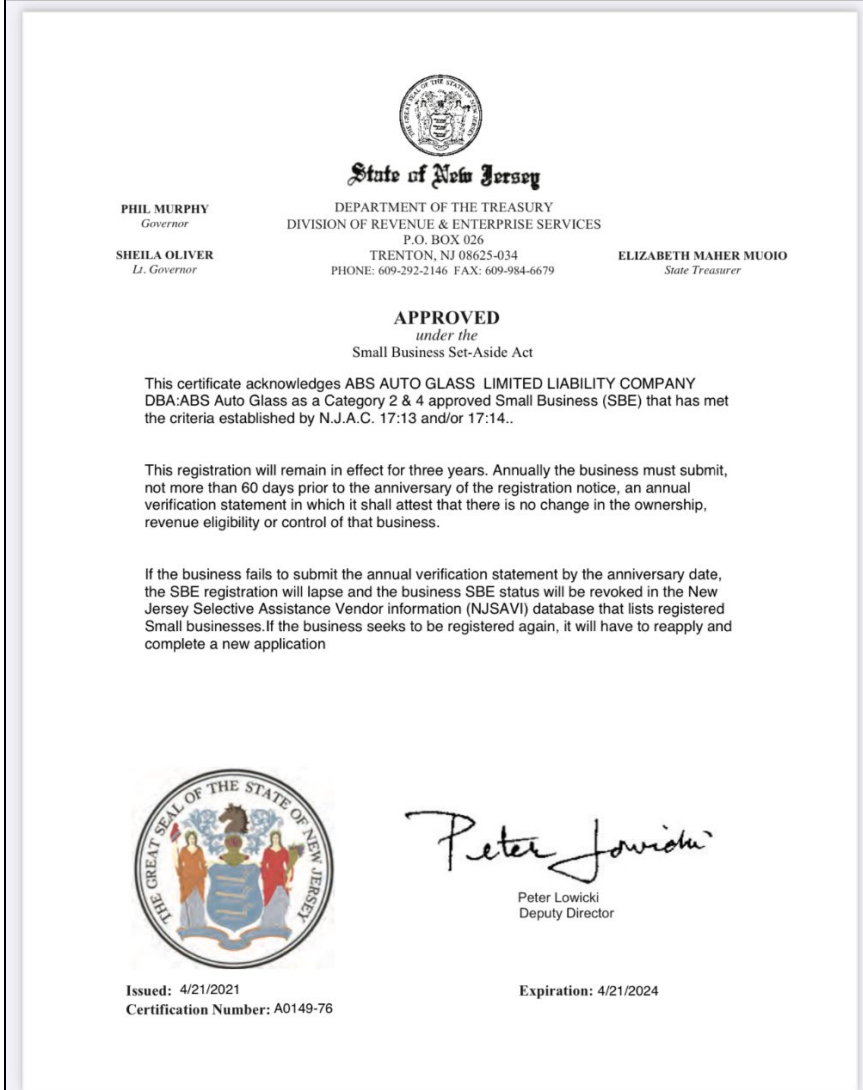
On April 21, 2021 and April 28, 2021, ABS submitted a protest challenging the Bureau's determination that it was not eligible for a Blanket P.O. because it was not properly registered as a SBE at the time of Quote Opening. Specifically, ABS states in part:

... I am really Sad that this matter was not brought to my attention earlier, My business ABS Auto Glass has being servicing The State Of NJ for the Last 6 years providing the State with the auto and truck glass. This matter with the Small business was a (sic) unfortunate situation that we were not aware of, please I ask you for an opportunity since this issue is been corrected already, we are struggling as this pandemic hit us all from all angles. We have corrected this problem and it will help my business keep their employees (we haven't lay-off any of our employees since the pandemic started) but this is different, if we lose the State business it will make a big whole in our already suffering financial situation. Here is a certificate from the NJ Portal updated...

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<sup>2</sup> The Recommendation Report reveals that three of the six Vendors {Bidders} were deemed non-responsive for not being registered as a SBE as the time of Quote Opening; and therefore, were not eligible for a Blanket P.O. award.

With the protest, ABS included a copy of its SBE certification which had been issued by DORES on April 21, 2021.



The image shows a formal SBE certification document from the State of New Jersey. At the top center is the state seal. Below it, the text reads "State of New Jersey" and "DEPARTMENT OF THE TREASURY DIVISION OF REVENUE & ENTERPRISE SERVICES". On the left, the names of Governor Phil Murphy and Lt. Governor Sheila Oliver are listed. On the right, the name of State Treasurer Elizabeth Maher Muoio is listed. The document is titled "APPROVED under the Small Business Set-Aside Act". The main body of text states that ABS AUTO GLASS LIMITED LIABILITY COMPANY (DBA: ABS Auto Glass) is a Category 2 & 4 approved Small Business (SBE) that has met the criteria established by N.J.A.C. 17:13 and/or 17:14. It also includes conditions for the registration, such as annual verification and the consequences of failing to submit it. At the bottom left is the Great Seal of the State of New Jersey. To its right is a signature of Peter Lowicki, Deputy Director. At the bottom, the issue date is 4/21/2021, the certification number is A0149-76, and the expiration date is 4/21/2024.

**State of New Jersey**  
DEPARTMENT OF THE TREASURY  
DIVISION OF REVENUE & ENTERPRISE SERVICES  
P.O. BOX 026  
TRENTON, NJ 08625-034  
PHONE: 609-292-2146 FAX: 609-984-6679

**PHIL MURPHY**  
*Governor*

**SHEILA OLIVER**  
*Lt. Governor*


**ELIZABETH MAHER MUOIO**  
*State Treasurer*


**APPROVED**  
*under the*  
Small Business Set-Aside Act

This certificate acknowledges ABS AUTO GLASS LIMITED LIABILITY COMPANY DBA:ABS Auto Glass as a Category 2 & 4 approved Small Business (SBE) that has met the criteria established by N.J.A.C. 17:13 and/or 17:14..

This registration will remain in effect for three years. Annually the business must submit, not more than 60 days prior to the anniversary of the registration notice, an annual verification statement in which it shall attest that there is no change in the ownership, revenue eligibility or control of that business.

If the business fails to submit the annual verification statement by the anniversary date, the SBE registration will lapse and the business SBE status will be revoked in the New Jersey Selective Assistance Vendor information (NJSAVI) database that lists registered Small businesses. If the business seeks to be registered again, it will have to reapply and complete a new application



  
Peter Lowicki  
Deputy Director

Issued: 4/21/2021  
Certification Number: A0149-76

Expiration: 4/21/2024

In consideration of ABS' protest, I have reviewed the record of this procurement, including the Bid Solicitation, ABS' 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.

A review of the records maintained by the DORES reveals that ABS was not certified as an SBE by DORES on the Quote opening date as required by N.J.S.A. 52:32-25 and Bid Solicitation Section 4.4.1.4 *Small Business Set-Aside Blanket P.O.* While ABS was previously certified as an SBE on August 26, 2015, that certification expired on August 25, 2018. Accordingly, the Bureau properly determined that ABS was ineligible for a contract award because it was not SBE certified as of the Quote opening date as required by the governing law. As mentioned above, ABS did register as an SBE after the Quote opening date, however ABS cannot satisfy the Bid Solicitation requirements "after the fact." ABS does not dispute that its SBE

certification was expired at the time of Quote opening, and therefore ABS was not eligible to receive an award.

The Division encourages competition and appreciates the time and effort put forth by ABS in preparing and submitting a Quote, and while I am sure this was an oversight on the part of ABS, the Division does not have the power to waive the statutory requirements for eligibility to bid on a Small Business Set Aside contract. In light of the findings set forth above, I have no choice but to uphold the Bureau's determination to award Master Blanket P.O. in the accordance with the April 19, 2021 NOI. This is my final agency decision on this matter.

Thank you for your company's continuing interest in doing business with the State of New Jersey and for registering your business with **NJSTART** at [www.njstart.gov](http://www.njstart.gov). I encourage you to log into **NJSTART** to select any and all commodity codes for procurements it may be interested in submitting a Quote for so that it may receive notification of future bidding opportunities.

Sincerely,



Maurice A. Griffin  
Acting Director

MAG: RUD

c. M. Dunn  
R. Regan  
J. Loughran