



# State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR  
33 WEST STATE STREET

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September 12, 2018

Via Electronic Mail [anatolia1@live.com] and USPS Regular Mail

Aydin Ozturk  
Golden Boys Trucking LLC  
3301 Cheltenham Court  
Edgewater Park, NJ 08010

Re: I/M/O Bid Solicitation #18DPP00205 Golden Boys Trucking, LLC  
T0777 Snow Plowing and Spreading Services  
Protest of Notice of Intent to Award

Dear Mr. Ozturk:

This letter is in response to your correspondence dated September 8, 2018 August 31, 2018, on behalf of Golden Boys Trucking, LLC (Golden Boys) to the Division of Purchase and Property's Hearing (Division) Unit. In that correspondence Golden Boys requests reconsideration of the Division's September 5, 2018 Final Agency which administratively dismissed Golden Boys' August 31, 2018, protest for failing to set forth the specific grounds for challenging the intended contract award as required by N.J.A.C. 17:12-3.3(b)(1). In the September 8, 2018, request for reconsideration, Golden Boys attempts to supplement its August 31, 2018, protest with the following:

...The purpose of this letter is to formally protest the intended Blanket P.O. awards. According to my knowledge, I believe that my truck fits in the criteria for experience and equipment set forth in this Bid Solicitation:

10th- Vendors {Bidders} supplying mid-body style trucks

To my knowledge, I am not completely aware of which decisions led to the rejection of me receiving the intended award. I have provided necessary documents prior to the rejection. It was stated in the letter sent to me, in response to the hearing, that I had failed to submit an Ownership Disclosure Form, but I had already submitted this form back in April. I have attached the document down below. I have also attached my State of New Jersey Business Registration Certificate, hoping it might prove to be of any assistance.

Due to my lack of knowledge of how the paperwork and bids were set up and worked, I did not know which documents were needed to be provided at which time, therefore, I was not able to provide what was needed

properly. My previous protest was administratively dismissed for not providing any specific grounds for challenging the intended contract award. This, again, had occurred to my lack of knowledge on what was required of me. I am aware that it was stated the decision given was the final one, but I would like to represent another protest in hopes that this will prove to have the required grounds.

By way of background, on January 30, 2018, the Division’s Procurement Bureau (Bureau) issued Bid Solicitation #18DPP00205 - T0777 Snow Plowing and Spreading Services (Bid Solicitation) on behalf of the New Jersey Department of Transportation (NJDOT), to solicit Quotes from qualified Vendors {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 Master Blanket Purchase Orders (Blanket P.O.s)<sup>1</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.

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.

A review of the record of this procurement reveals that Golden Boys uploaded a Quote via *NJSTART* at 06:46:00 a.m. on March 15, 2018. Golden Boys uploaded a single file as Quote 00002039, comprised of the following documents:

- An Offer and Acceptance Page;
- A Disclosure Form of Investigations and Other Actions Involving the Vendor/Bidder Form;
- A Bid Solicitation Attachment 2, Vendor {Bidder} Experience Form;
- A number of Bid Solicitation Attachment 1, Vendor {Bidder} Equipment Forms; and
- State Supplied Price Sheet/Schedule excerpts.

On April 16, 2018, the Division’s Proposal Review Unit issued Golden Boys a Notice of Proposal Rejection, advising that its Quote was rejected because it was missing required certifications, forms, and attachments. Specifically, Golden Boys’ Quote was missing a completed *Ownership Disclosure Form*.

<sup>1</sup> For consistency, this 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



**STATE OF NEW JERSEY**  
**NOTICE OF PROPOSAL REJECTION**  
Department of the Treasury, Division of Purchase and Property  
PO Box 230, Trenton, NJ 08625-0230

Vendor Name: <u>Aydin Ozturk</u>	Proposal Due Date: <u>Mar 16, 2018</u>
Vendor Address: <u>Golden Boys Trucking LLC</u> <u>3301 Cheltenham Court</u> <u>Beverly, NJ 08010</u>	Solicitation #: <u>18DPP00205</u> Solicitation Title: <u>T0777 Snow Plowing</u> <u>Spreading Services</u>

Your proposal, or a portion thereof, has been rejected pursuant to the provisions of the New Jersey Administrative Code (N.J.A.C.) 17:12-2.2, *Requirements for bidding and contract award*. N.J.A.C. 17-12 can be viewed at the Division of Purchase and Property's website at [www.state.nj.us/treasury/purchase/AdminCode.shtml](http://www.state.nj.us/treasury/purchase/AdminCode.shtml). Rejection of the proposal was caused by non-compliance with the following requirement(s):

1. Not enclosed or sealed.
2. Not timely submitted. Date Received: \_\_\_\_\_ Time: \_\_\_\_\_
3. Not signed by representative of the bidding entity.
4. Missing bid security.
- X 5. Missing required RFP certifications, forms, and attachments, as noted:**
  - Ownership Disclosure Form
  - Disclosure of Investment Activities in Iran
  - Other \_\_\_\_\_
6. Required form(s) not signed or completed, as noted:
  - Ownership Disclosure Form
  - Disclosure of Investment Activities in Iran
  - Other \_\_\_\_\_
7. Missing pricing information.
8. Mandatory pre-proposal conference and/or site visit not attended.
9. Price alteration not initialed for line number(s): \_\_\_\_\_
10. Not prepared in ink, typewritten, or submitted electronically.
11. Not registered at proposal due date/time as a NJ Department of the Treasury-approved small business.
- X 12. Although not a cause for rejection at this time, Division records indicate your firm is not currently business-registered by the Division of Revenue of the Department of the Treasury (N.J.S.A. 52:32-44.1(b)) - please see the warning letter attached.

The rejection for either Item 7 or Item 9 above may apply to the entire proposal or only to a portion thereof, depending upon the RFP's proposal pricing provisions.

A deficiency causing rejection of a proposal is not subject to remedy after the opening of the proposals. The Division's administrative rules at N.J.A.C. 17:12-3.3, *Protest Procedures*, specifically item (a)(1), addresses a bidder's recourse. Signed letters of protest must be timely filed with the Division's Hearing Unit (see contact info below), within 10 business days following the bidder's receipt of written notification that its proposal is rejected. For instructions concerning access to your proposal or for information concerning this rejection notice, contact the Division's Proposal Review Unit at the telephone number listed below.

<b>HEARING UNIT:</b> Email: <a href="mailto:dpp.protest@treas.nj.gov">dpp.protest@treas.nj.gov</a> Fax: 609-984-2575 Regular Mail: PO Box 039, Trenton, NJ 08625-0039	<b>PROPOSAL REVIEW UNIT:</b> Telephone: 609-292-4700
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Rev. 7/2015

On June 15, 2018, Golden Boys submitted a protest to the Division's Hearing Unit protesting the Notice of Proposal Rejection stating:<sup>2</sup>

My name is Aydin Ozturk, president of Golden Boys Trucking LLC. I was told my bid was rejected because NJ State does not have my business

<sup>2</sup> Pursuant to the Division's governing regulations, a protest of the Notice of Proposal Rejection "shall be filed within 10 business days following the bidder's receipt of written notification that its proposal is non-responsive." N.J.A.C. 17:12-3.3(b). Golden Boys protest was filed 60 days after the Notice of Proposal Rejection was issued, but was nonetheless considered by the Division.

registration. Please see attached receipt & registration forms, proving this statement.

With that protest, Golden boys included a copy of its Business Registration Certificate along with a two-page date print out supporting the business registration. Golden Boys did not include a copy of its *Ownership Disclosure Form* with the June 15, 2018, protest.<sup>3</sup> On June 20, 2018, the Division issued a Final Agency Decision stating:

In reviewing a Quote submitted in response to a Bid Solicitation, the Division does not have the power to waive the legislative requirement that a Vendor {Bidder} provide its ownership information prior to or accompanying the Quote submission. Only the New Jersey Legislature can change a requirement it has mandated. Unfortunately, Golden Boys Trucking did not comply with any of the options available to it for the submission of ownership information. Accordingly, Golden Boys Trucking's Quote was properly rejected by the Division's Proposal Review Unit for failure to submit the mandatory *Ownership Disclosure Form* with its Quote.

If the requirements of N.J.S.A. 52:25-24.2 and N.J.A.C. 17:12-2.2 are not met, a Quote must be rejected. These statutes and regulations mandate stringent enforcement to maintain the equal footing of all Vendors {Bidders} and to ensure the integrity of the State's bidding process. The **NJSTART** system does not prevent a Vendor {Bidder} from submitting a Quote without all of the required forms and documents attached as mandated by the specifications. 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*.

Here, unfortunately, Golden Boys Trucking submitted a Quote without the *Ownership Disclosure Form* attached and the Division is prohibited from accepting it after the Quote submission deadline. Notwithstanding Golden Boys Trucking's interest in competing for this procurement, to allow Golden Boys Trucking to submit the completed and signed *Ownership Disclosure Form* after bid opening would violate the Legislative requirements outlined in N.J.S.A. 52:25-24.2 that the ownership information must be submitted prior to or with the Quote, a requirement that the Division is not authorized to waive.<sup>4</sup>

[June 20, 2018, Final Agency Decision, p. 6.]

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<sup>3</sup> Even if Golden Boys has submitted the *Ownership Disclosure Form* with its original protest, for the reasons stated in the June 20, 2018, Final Agency Decision, the Division is unable to accept an *Ownership Disclosure Form* submitted after the Quote opening date.

<sup>4</sup> As noted in the Notice of Proposal Rejection and accompanying letter, proof of business registration is a requirement that must be fulfilled prior to the award of a Blanket P.O. and was not a basis upon which Golden Boys' Quote was rejected.



The remaining Quotes were forwarded to the Bureau for review and evaluation consistent with the requirements of Bid Solicitation Section 6.7 *Evaluation Criteria*. Because Golden Boys' Quote did not comply with the administrative requirements for Quote submission it was not evaluated and considered for an award of a Blanket P.O.

After the review and evaluation of the administratively compliant Quotes was completed, on August 22, 2018, the Bureau prepared a Recommendation Report which recommended Blanket P.O. awards to those responsible Vendors {Bidders} whose Quotes, conforming to the Bid Solicitation were most advantageous to the State, price and other factors considered. On August 24, 2018, the NOI was issued advising all Vendors {Bidders} that it was the State's intent to award Blanket P.O.s consistent with the Bureau's Recommendation Report.

As noted above, on August 31, 2018, the Division received Golden Boys' protest challenging the intended Blanket P.O. awards. That protest stated:

I am the owner of Golden Boy Trucking LLC my name isaydin ozturk that decision they made I am not agree with that because they have more than one section they also reject me then I give you a job people work for me they have family to support I do have family support to please help me out thank you. (sic)

On September 5, 2018 the Division issued its Final Agency Decision stating "Golden Boys has not provided the specific ground(s) for challenging the award of Blanket P.O.s as shown in the direct Quote from Golden Boys' protest document. Therefore, Golden Boys' protest is administratively dismissed for not providing any specific grounds for challenging the intended contract award." See, N.J.A.C. 17:12-3.3(b)(1). In addition, the September 5, 2018 decision noted that "to the extent that Golden Boys is again protesting the Notice of Proposal Rejection for failure to submit an *Ownership Disclosure Form* with its Quote, this issue was addressed in the Division's June 20, 2018 Final Agency Decision."

With respect to Golden Boys September 8, 2018 letter, Golden Boys' Quote was automatically rejected for failing to submit *Ownership Disclosure Form* with the submitted Quote. On June 15, 2018 Golden Boys submitted a protest, and on June 20, 2018, the Division issued its Final Agency Decision sustaining the Notice of Proposal Rejection. After the issuance of the Final Agency Decision, Golden Boys' recourse was to file an appeal with the Appellate Division. The Division's governing regulations state in part that "final agency determinations by the Director on matters of protest are appealable to the Appellate Division of the Superior Court of New Jersey." N.J.A.C. 17:12-3.1. Further, "appeals from final decisions or actions of state administrative agencies or officers...shall be taken within 45 days from the date of service of the decision or notice of the action taken." New Jersey Court Rule 2.4-1(b). As such, Golden Boys should have submitted its appeal of the Division's June 20, 2018, Final Agency Decision to the Appellate Division by August 6, 2018. Rather, Golden Boys, upon the issuance of the August 24, 2018 NOI, filed a second and third protest essentially seeking a reconsideration of the Division's June 20, 2018, Final Agency Decision.

Finding no reason to disturb the Bureau's recommendation, I sustain the April 16, 2018 Notice of Proposal Rejection, the June 20, 2018 Final Agency Decision, and the August 24, 2018, Notice of Intent to Award. This is my Final Agency Decision with respect to the protest submitted by Golden Boys. **Please visit the New Jersey Department of Transportation's website as a bidding opportunity for un-awarded price lines is currently posted.**

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.

Sincerely,



Maurice A. Griffin  
Acting Director

MAG: RUD

c: P. Michaels  
L. Spildener  
M. Groninger