



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR
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November 9, 2018

Via Electronic Mail [mjmartzx@yahoo.com] and USPS Regular Mail

Michael Martz, General Partner
Martz's Game Farm F.L.P.
1610 Game Farm Road
Dalmatia, PA 17017

Re: I/M/O Bid Solicitation # 18DPP00274 Martz's Game Farm F.L.P.
Protest of Notice of Intent to Award
T3098 Adult Pheasants for NJ Division of Fish and Wild Life

Dear Mr. Martz:

This letter is in response to your email of October 31, 2018, on behalf of Martz's Game Farm F.L.P. (Martz's) which was received by the Division of Purchase and Property's (Division) Hearing Unit. In that email Martz's protests the October 26, 2018, Notice of Intent to Award (NOI) issued by the Division's Procurement Bureau (Bureau) for Bid Solicitation #18DPP00274 - T3098 Adult Pheasants for NJ Division of Fish and Wild Life (Bid Solicitation).¹

By way of background, on August 2, 2018, the Bureau issued the above referenced Bid Solicitation on behalf of the Department of Environmental Protection, Division of Fish and Wildlife. The purpose of this Bid Solicitation is to solicit Quotes for Adult Pheasants. Bid Solicitation § 1.1 *Purpose and Intent*. The intent of the Bid Solicitation to award one (1) Master Blanket Purchase Order (Blanket P.O.) per region

¹ 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.

NJSTART 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

(North, Central and South). Each region is identified as an individual price line on the State-Supplied Price Sheet. Vendors {Bidders} may bid on one, two, or all three price lines in any combination.

On September 6, 2018, the Division's Proposal Review Unit opened two Quotes received in accordance with bidding requirements outlined in the RFP by the submission deadline of 2:00 p.m.² After conducting a preliminary review of the Quotes received, both Quotes were forwarded to the Bureau for review and evaluation consistent with the requirements of Bid Solicitation Section 6.6 *Evaluation Criteria*. On October 26, 2018, the NOI was issued advising all Vendors {Bidders} that it was the State's intent to award Blanket P.O.s as follows:

Price Line	Region	Vendor
1	Northern Region.	Mahantongo Game Farms, LLC
2	Central Region.	N/A
3	Southern Region.	Trace Pheasantry

On October 31, 2018, Martz's submitted an email to the Division stating:

I am inquiring into bid solicitation number 18DPP00274 for an adult pheasant contract for the New Jersey Central location.

Attached are the documents that I uploaded to the best of my knowledge to the New Jersey Start web site.

When I called with questions on the directions I was told that I simply needed to follow the directions which I did to the best of my ability and to my knowledge, submitted everything accordingly.

Two other large game farms in PA put bids in for the North and South locations. I was informed that they both heard back from the state of New Jersey in regards to their bids but nothing has been posted on the Central location. I have not heard anything to date.

We are getting to a point where to fulfill such a contract I need to order the proper materials to assemble flight pens for the birds. I was wondering if someone could inform me of whether there is any intent to award the contract for the Central location or if there is any additional information that was not uploaded correctly?

Any insight you could give me on this issue would be greatly appreciated.

With its protest, Martz's included copies of the documents which it states it uploaded to the Division's website.

In consideration of Matz's protest, I have reviewed the record of this procurement, including the Bid Solicitation, the Quotes received, 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

² Quotes were received from Mahantongo Game Farms, LLC and Trace Pheasantry.

an informed Final Agency Decision on the merits of the protest. I set forth herein the Division's Final Agency Decision.

The Division's public procurement program reflects the New Jersey statutory and regulatory requirements that have been affirmed by New Jersey courts. A basic precept of the Division's governing statutes and regulations requires that Quotes must be submitted by the deadline specified in the public advertisement and website notice. N.J.A.C. 17:12-2.1. The Division's governing regulations further require that "[i]n order to be eligible for consideration for award of [Blanket P.O.], the bidder's [Quote] shall ... [b]e submitted on or before the due date and time and at the place specified in the [Bid Solicitation]." N.J.A.C. 17:12-2.2(a), emphasis added.

Consistent with the governing regulations, the Bid Solicitation specifically advised all Vendors {Bidders} of the Quote submission requirements 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.

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 State 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).

Additionally, the Bid Solicitation recommended that Vendors {Bidders} review the Division's Quick Reference Guides (QRG) for assistance on how to submit a Quote.

4.3.1 NJSTART SUBMISSION OF QUOTE {PROPOSAL}

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 and screenshots on how to locate a Bid Solicitation and how to submit a Quote in response to that Bid Solicitation. See, QRG entitled *Submit a Quote*, pgs. 10-20; <https://www.state.nj.us/treasury/purchase/njstart/pdf/QRG-Seller-Create-a-Quote-in-NJSTART.pdf>. With respect to Quote submission, the QRG advises:

3.5.8. Submit Your Quote

- When all of your reviews and edits are complete, click on the **Submit Quote** button, shown below:




- After you click the **Submit Quote** button once, the following pop-up window will be displayed asking you to confirm whether or not you want to submit the Quote.
- Click **OK** to submit the Quote.

Additionally, the QRG provides instructions on how to confirm that a Quote has been submitted:

3.5.9. Verify that Your Quote Has Been Submitted

- Once you click on a submitted Quote, the Summary tab shows the Status as "Submitted" for the Quote (circled in red below).



The screenshot shows the NJSTART eProcurement interface. At the top, it displays 'Quote-00000501 Vendor Admin Inc.' and a navigation menu with options like 'Quote', 'Items', 'Quotations', 'Submittals', 'Tasks', 'Tasks & Documents', 'Attachments', 'Services', and 'Quote Bid'. The main content area is divided into two columns. The left column lists various quote details: Quote # (00000501), Organization (NJ State Parks and Property), Item # (1), Delivery Date, Bid No. Bid, Shipping Terms, Request Terms, Proposed Date (08/01/2018), and Info Center. The right column lists: Bid # (1815000053), Description (11260 Services Task 000005), Proposed Amount (10.00), Request Status (In Progress), and Request Terms. The status 'Submitted' is circled in red in the 'Status' field of the left column. At the bottom, there are 'Last time updated' timestamps for both columns.

- Only when your Quote status indicates **Submitted** can you be confident that you have successfully submitted your Quote for consideration by the State.

Moreover, the Division has created and provided to the bidding community a QRG entitled *How to Review a Submitted Quote*. That QRG provides step by step instructions with screenshots on how to confirm that a Quote has been submitted with all required documents, forms, certifications, etc. attached as required by the Bid Solicitation.

In connection with the review of Martz's protest, the Division's Hearing Unit reviewed record of the Quotes submitted in response to the Bid Solicitation and confirmed that Martz's did not submit a Quote through the **NJSTART** eProcurement system, nor did Martz's submit a hard copy Quote to the Division. Because Martz's asserts that it uploaded documents to the Division's website and submitted a Quote in response to the Bid Solicitation, a review of all the Vendor {Bidder} Quotes created but not submitted was made. As shown in the screen shot below, that review revealed that Martz's did create a Quote prior to the Quote submission deadline, but that Martz's did not submit the Quote as required.

Quote 00002473 - Martz's Game Farm F.L.P.

General Items Questions Subcontractors Terms & Conditions Attachments(8) Evaluations Preference Reminders **Summary** Back to Bid

Header Information

Quote #: 00002473 **Bid #:** 18DPP00274 **Status:** In progress

Organization: Division of Purchase and Property

Description: T3098 Adult Pheasants for NJ Division of Fish and Wildlife **Delivery Days:** 17 **Discount Percent:** 0.0

Bid Flag: Yes **Alternate Bid:** No **Shipping Terms:** F.O.B., Destination

Freight Terms: **Ship Via Terms:** **Payment Term:** 1% 10 Net 30

Promised Date: 10/01/2019 **Info Contact:** Michael Martz - (800)326-8842 mjmartzx@yahoo.com **Quote Total:** \$1.00

Comment: Pheasant Propagation Bid - Fall 2019-Fall 2021

Date Last Updated: 08/09/2018 03:08:38 PM **User Last Updated:** Michael Martz **User Created:** Michael Martz

Print format: Quote

Vendor accepts the terms & conditions with no exceptions.

Bid Acknowledgements:

Document	Amendment Note	Notifications	Acknowledged Date/Time
Amendment 1	Bid Amendment #1 8.15.18 - Responses to Questions and Answers. No change to original bid opening date. Attachment File Changes: Header 1. File 'T3098 Bid Amendment 1 Answers to Questions 8.16.18.docx'; File 'T3098 Bid Amendment 1 Answers to Questions 8.16.18.docx' added. Enrollment Date Changes:	At bid acknowledgement	08/16/2018 11:11:30 AM

A status designation of “In progress” means that the Vendor {Bidder} is still in the process of creating and uploading documents comprising the Quote and the Vendor {Bidder} has not completed the steps to submit the Quote as show in section 3.5.8 of the “Submit a Quote” QRG. See, screen shot on page 4 above. Had Martz’s properly submitted the Quote following the instructions set forth in the Division’s *Submit a Quote* QRG, the status would have said “Submitted” as shown in the example in the screen shot below.

General Items Questions Subcontractors Terms & Conditions Attachments(11) Evaluations Preference Reminders **Summary** Back to Bid

Header Information

Quote #: [REDACTED] **Bid #:** 18DPP00274 **Status:** Submitted

Organization: Division of Purchase and Property

Description: T3098 Adult Pheasants for NJ Division of Fish and Wildlife **Delivery Days:** 0 **Discount Percent:** 0.0

Bid Flag: Yes **Alternate Bid:** No **Shipping Terms:** F.O.B., Destination

Freight Terms: **Ship Via Terms:** **Payment Term:** [REDACTED]

Promised Date: 09/05/2018 **Info Contact:** [REDACTED] **Quote Total:** \$1.00

Comment: [REDACTED]

Date Last Updated: 09/05/2018 04:19:47 PM **User Last Updated:** [REDACTED] **User Created:** [REDACTED]

Print format: Quote

Vendor accepts the terms & conditions with no exceptions.

Bid Acknowledgements:

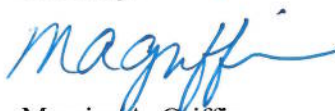
Document	Amendment Note	Notifications	Acknowledged Date/Time
Amendment 1	Bid Amendment #1 8.15.18 - Responses to Questions and Answers. No change to original bid opening date. Attachment File Changes: Header 1. File 'T3098 Bid Amendment 1 Answers to Questions 8.16.18.docx'; File 'T3098 Bid Amendment 1 Answers to Questions 8.16.18.docx' added. Enrollment Date Changes:	At bid acknowledgement	09/05/2018 03:51:29 PM

The responsibility for ensuring that all necessary forms and other submittals are properly uploaded into **NJSTART**, and for ensuring that a Quote has been submitted, necessarily and appropriately rests solely with the Vendor {Bidder}. Bid Solicitation § 1.4.2 *Vendor {Bidder} Responsibility*. The Division's governing regulations mandate stringent enforcement to maintain the equal footing of all Vendors {Bidders} and to ensure the integrity of the State's bidding process. Despite Martz's desire to submit a Quote for the subject solicitation, under the provisions set forth above, the statutory procurement laws, and the regulations of the State of New Jersey, the Division is unable to accept Martz's un-submitted "in-progress" Quote.

This is an unfortunate situation for the State as the Division encourages competition and appreciates the time and effort put forth in preparing and submitting the Quote. However, in light of the findings set forth above, I have no choice but to deny your request for eligibility to participate in the competition for the subject Bid Solicitation. This is my final agency decision with respect to the protest submitted by Martz's.

Thank you for your company's interest in doing business with the State of New Jersey and for registering your company with **NJSTART** at 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 related to the goods sought in this Bid Solicitation.** I also invite you to visit the **NJSTART** Vendor Support Page and review the Division's Quick Reference Guides which will provide you with information on how to submit a Quote and how to review a Quote to ensure that all necessary documents have been uploaded and confirm that the Quote has been submitted as required.

Sincerely,



Maurice A. Griffin
Acting Director

MAG: RUD

c: J. Kerchner
K. Thomas
A. Puza