



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR
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July 13, 2020

Via Electronic Mail Only DLDisler@pbnlaw.com

David L. Disler, Esq.
Porzio, Bromberg & Newman, P.C.
100 Southgate Parkway, P.O. Box 1997
Morristown, NJ 07962-1997

Re: I/M/O Bid Solicitation #20DPP00525 Atlantic Recycling Group, LLC
Protest of Notice of Proposal Rejection – Request for Reconsideration
T0777 Snow Plowing and Spreading Services - NJDOT

Dear Mr. Disler:

This letter is in response to your June 24, 2020, correspondence to the Division of Purchase and Property's (Division) Hearing Unit, submitted on behalf of Atlantic Recycling Group, LLC (ARG). In that correspondence, ARG requests that the Division reconsider the June 15, 2020, Final Agency Decision, which upheld the Notice of Proposal Rejection issued by the Division's Proposal Review Unit.

As noted in the Division's Final Agency Decision, on April 9, 2020, the Division's Procurement Bureau (Bureau) issued the 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) 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 May 14, 2020, the Bureau issued Bid Amendment #1 extending the Quote Submission Due Date to 2:00 p.m. eastern time on June 2, 2020. On May 28, 2020 the Bureau issued Bid Amendment #2 responding to the questions posed by potential Vendors {Bidders}. Bid Amendment #2 also extended the Quote Submission Due Date to 2:00 p.m. eastern time on June 9, 2020. On June 9, 2020, the Division's Proposal Review Unit opened 215 Quotes submitted by the Quote Submission Due Date. After conducting a review of the Quotes received for compliance with the mandatory requirements for Quote submission, on June 10, 2020, the Division's Proposal Review Unit issued a Notice of Proposal Rejection to ARG. Specifically, the Notice of Proposal Rejection indicated that ARG's Quote did not include the *Ownership Disclosure Form* or pricing information.¹

¹ With the request for reconsideration, ARG included the certification of Tino Kyprianou, Digital4nx Group, Ltd.'s Director of Digital Forensics & eDiscovery. In that certification Mr. Kyprianou states, "In a letter to Atlantic Recycling Group, LLC on June 10, 2020 the State of New Jersey confirmed that they

On June 10, 2020, after the Quote submission deadline, ARG wrote the Division's Hearing Unit stating in relevant part:

We are in receipt of the enclosed Notice of Proposal Rejection for Atlantic Recycling Group, LLC, for the above-captioned bid solicitation which was rejected for the following reasons:

1. Missing RFP required certifications, forms, and attachments, as noted:
Ownership Disclosure Form
2. Missing Pricing Information

Please be advised that we have the following response:

1. The Ownership Disclosure Form was submitted with the proposal on 06/07/2020 and we confirmed that it was uploaded. A copy of the disclosure form is enclosed.
2. Please inform us as to what pricing information is missing.

With the protest, ARG included a copy of the *Ownership Disclosure Form*.

On June 15, 2020, the Division issued a Final Agency Decision upholding the Notice of Proposal Rejection. In that decision, the Division noted that:

...unfortunately, ARG submitted a Quote without the *Ownership Disclosure Form* attached. 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, ARG did not comply with any of the options available to it for the submission of ownership information.

Second, as to the submission of the required pricing information, 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 stated in relevant part "The Vendor {Bidder} must submit its pricing using the State-Supplied Price Sheet accompanying this Bid Solicitation and located on the "Attachments" Tab." Further, Bid Solicitation § 4.4.5.2 *State-Supplied Price Sheet Instructions*, again reminded Vendors {Bidders} "The Vendor {Bidder} must submit its pricing using the format set forth in the applicable State-

received 15 uploaded documents, but that the Ownership Disclosure Form and the State-Supplied Price Sheets were not uploaded." A review of the record of this procurement reveals that the only correspondence between the State of New Jersey and ARG on June 10, 2020 was the Notice of Proposal Rejection. Mr. Kyprianou misinterprets the purpose and content of the Notice of Proposal Rejection. The Notice of Proposal Rejection lists ten categories pursuant to which a submitted Quote shall be rejected in accordance with the provisions of N.J.A.C. 17:12-2.2. That document does not confirm the receipt of any attachments to a Quote. Rather, the Notice of Proposal Rejection identifies specific deficiencies in a submitted Quote that cause the Quote to be rejected, including non-compliance with statutory and/or regulatory requirements.

Supplied Price Sheet(s) accompanying this Bid Solicitation.” However, as noted above, ARG did not upload any attachments to its submitted Quote; and therefore, no pricing information was included with the submitted Quote.

[June 15, 2020, Final Agency Decision, p. 5.]

Thereafter, on June 24, 2020, ARG wrote the Division’s Hearing Unit stating:

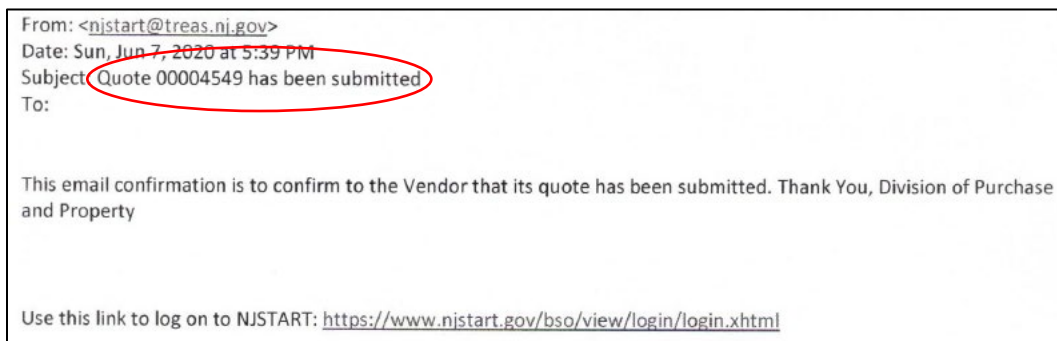
ARG did in fact upload these alleged missing documents, in addition to the other requisite documents, onto the State’s NJSTART website. This was confirmed by both the individual who submitted the bid and an independent forensic analysis undertaken of the computer used to submit the bid. The fact that all of the documents now are missing from NJSTART -- not just the Ownership Disclosure Form and Pricing Sheets -- is further proof that an error has occurred with NJSTART as it relates to ARG’s bid. Therefore, ARG requests that the Division reconsider the findings of Hearing Officer Doobrajh in light of this new information.

With the request for reconsideration, ARG included the certifications of following individuals:

- (1) Thomas Ippolito, Principal of ARG;
- (2) Nadene Cicero, Corporate Secretary for ARG; and,
- (3) Tino Kyprianou, Director of Digital Forensics & eDiscovery with Digital4nx Group, Ltd.

By way of summary, Mr. Ippolito’s states that he is “concerned that ARG is being targeted due to the New Jersey Department of Transportation’s dislike of the fact ARG exercised its right to appeal the termination of its contract (which was partially successful before the Division).” Ippolito Certification at 2. In response to Mr. Ippolito’s allegation I note that the Division’s determination that ARG’s submitted Quote did not comply with the regulatory requirements for Quote submission was arrived at through a review of the information available on the on the **NJSTART** eProcurement system. Any issues that ARG may or may not have with the NJDOT, played no role in that decision.

A review of Ms. Cicero’s certification revealed that she was responsible for uploading the Quote documents to **NJSTART**. The certification indicates that Ms. Cicero started the upload process at approximately 3:30 p.m. on June 7, 2020. She states that it was a lengthy process taking approximately 2 hours to complete the upload of 18 documents. At 5:39 p.m. she submitted the Quote and immediately received the following email:



Ms. Cicero states that she then spent 15 minutes double checking that the documents were properly uploaded. With respect to the automatically generated email from the **NJSTART** eProcurement site, that email establishes that Quote #00004549 was submitted; however, that email does not establish that any documents were uploaded to Quote #00004549.

Additionally, as noted above, ARG submitted the certification of Tino Kyprianou, a digital forensics expert. Mr. Kyprianou asserts that he was able to confirm that:

The activity on the Computer shows that on June 7, 2020, between the hours of 3:48 PM and 5:28 PM, Ms. Cicero was accessing www.njstart.com and uploading documents, including Ownership Disclosure Form and the State-Supplied Price Sheets, as shown on Exhibit 2. Exhibit 2 was extracted from the browser history as (sic) shows the date and time the documents were last accessed.

As shown in the series of screenshots below, a review of Exhibit 1, included with Mr. Kyprianou's certification, reveals the following. At 3:35 p.m. on June 7, 2020, ARG logged into **NJSTART**. At 3:39 p.m., Quote #00004544 was created. See screenshot below from Kyprianou's certification, Exhibit 1, lines 14232 and 14242.

Record	URL	Date Visited	Date/Time (UTC-5:00)
14232	https://www.njstart.gov/bso/view/login/login.xhtml	6/7/2020	3:35 PM
14242	https://www.njstart.gov/bso/quotes/vendor/vquoteTermCondition.sdo?quoteId=00004544	6/7/2020	3:39 PM

Then, at 3:40 p.m., Quote #00004545 was created, and it appears that ARG uploaded and attached at least one document to Quote #00004545. See screenshot below from Kyprianou's certification, Exhibit 1, lines 14250 – 14251.

14247	https://www.njstart.gov/bso/quotes/vendor/vquoteItemGeneral.sdo?quoteId=00004545	6/7/2020	3:40 PM
14250	https://www.njstart.gov/bso/document/attachments/attachments.sdo?docType=Q&docId=00004545	6/7/2020	3:42 PM
14251	https://www.njstart.gov/bso/documentmanagement/search/formSearch.sdo?docId=00004545&docType=Q&docSubType=&releaseNbr=0&itemNbr=0&revisionNbr=0&workingDir=V00006525&currentPage=1&receiptId=&parentId=&vendorNbr=&vendorGrp=&invoiceNbr=&id=&vendorAttachments=false&parentUrl=/document/attachments/attachments.sdo	6/7/2020	3:44 PM

At 3:45 p.m. ARG re-logged into **NJSTART** and continued attaching documents to Quote #00004545 until 4:13 p.m. See screenshot below from Kyprianou's certification, Exhibit 1, lines 14256 – 14342.

14254	https://www.njstart.gov/bso/view/login/login.xhtml	6/7/2020	3:45 PM
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At 4:15 p.m., ARG re-logged into **NJSTART**. See screenshot below from Kyprianou's certification, Exhibit 1, line 14345.

14345	https://www.njstart.gov/bso/view/login/login.xhtml	6/7/2020	4:15 PM
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Then at 4:16 p.m., Quote #00004546 was created and ARG uploaded and attached documents to Quote #00004546 until approximately 4:47 p.m. See screenshot below from Kyprianou's certification, Exhibit 1, lines 14350 – 14423.

14350	https://www.njstart.gov/bso/document/attachments/attachments.sdo?docType=Q&docId=00004546	6/7/2020	4:16 PM
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At 5:06 p.m. Quote #00004548 was created. ARG uploaded and attached documents to Quote #00004548 until approximately 5:33 p.m. See screenshot below from Kyprianou's certification, Exhibit 1, lines 14430 – 14487.

14429 <https://www.njstart.gov/bsol/document/attachments/attachments.sdo?docType=Q&docId=00004548> 6/7/2020 5:06 PM

Finally, at 5:36 p.m. Quote #00004549 was created. ARG did not upload or attach any documents to Quote #00004549, but ARG did submit Quote #00004549. See screenshot below from Kyprianou's certification, Exhibit 1, lines 14494 – 14502.

14493 <https://www.njstart.gov/bsol/quotes/vendor/vquoteltemGeneral.sdo?quotelid=00004549> 6/7/2020 5:36 PM

At 5:53 p.m. ARG logged out of **NJSTART**. See screenshot below from Kyprianou's certification, Exhibit 1, line 14503.

14503 <https://www.njstart.gov/bsol/logout.sdo> 6/7/2020 5:53 PM

In its brief in support of reconsideration, ARG argues that, through Digital4nx's review of Ms. Cicero's computer, it was able to confirm that the following 18 files were uploaded to **NJSTART**:

1. T0777 ARG State-Supplied Price Sheet - Snow Plowing and Hauling Services mu 06-07-2020.pdf
2. T0777 ARG Ownership Disclosure mu 04-27-2020.pdf
3. T0777 ARG Revised Attachment 1 - Experience of Thomas Ippolito 06-03-2020.pdf
4. T0777 ARG Source Disclosure Form signed 04-27-2020.pdf
5. T0777 ARG Chapter 51 Exec Order 117 signed 04-27-2020.pdf
6. T0777 ARG Disclosure Investigations and Other Actions signed 04-27-2020.pdf
7. T0777 ARG Subcontractor Utilization Form mu 04-27-2020.pdf
8. T0777 ARG Disclosure Investment Activities Iran signed 04-27-2020.pdf
9. T0777 ARG Revised Bid Solicitation Checklist_1 05-31-2020.pdf
10. T0777 ARG Offer and Acceptance Page signed 06-03-2020.pdf
11. T0777 ARG AA_302 Employee Information Report Signed 04-24-2020.pdf
12. T0777 ARG ACORD Form Conover Beyer 05-13-2020.pdf
13. T0777 ARG ACORD Form Franchino 05-15-2020.pdf
14. T0777 Atlantic Recycling Group Business Regis Cert 06-03-2020.pdf
15. T0777 ARG Revised Attachment 1 - Experience of Vendor Bidder mu 06-03-2020.pdf
16. T0777 ARG Bid Amendment 1_2 05-14-2020.pdf
17. T0777 ARG Bid Amendment 2_2 05-28-2020.pdf
18. T0777 ARG State-Supplied Price Sheet - Spreading Services mu 06-03-2020.pdf

[ARG's Request for reconsideration, p. 3.]

Accordingly, ARG states that, "it is clear that ARG properly uploaded the forms on **NJSTART**. At best, there was a computer glitch with **NJSTART** that resulted in the Division not properly receiving the forms that were uploaded by ARG." Id. at 4.

In consideration of ARG's request for reconsideration, I have reviewed the record of this procurement including the Bid Solicitation, the relevant statutes, regulations, and case law. In addition, I have reviewed the certifications and information provided by ARG with the request for reconsideration along with the submission information available through **NJSTART**. This review of the record has

provided me with the information necessary to determine the facts of this matter and to render an informed decision with respect to ARG's request for reconsideration.

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 to -2.14. 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 electronically through [NJSTART](#).

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](#).

Inquiries concerning the use of [NJSTART](#) may be directed to njstart@treas.nj.gov.

The Division will not respond to substantive questions related to the Bid Solicitation or any other Blanket P.O. via this e-mail address. 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.

1.3.3 VENDOR {BIDDER} SUPPORT



Vendors {Bidders} are strongly encouraged to visit the [NJSTART Vendor Support Page](#), which contains Quick Reference Guides (QRGs),

supporting videos, a glossary of **NJSTART** terms, and helpdesk contact information.

The Vendor {Bidder} should utilize the QRGs before attempting to submit its Quote using the **NJSTART** process. It is the Vendor's {Bidder's} responsibility to ensure that the **NJSTART** Quote and attachments have been properly submitted.

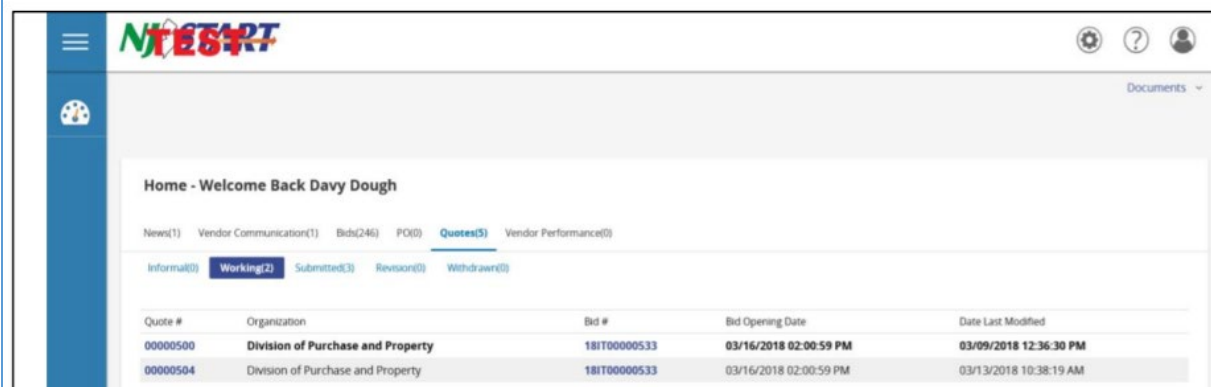
Further, Bid Solicitation Section 4.3.1 **NJSTART Submission of Quote** again stated "Vendors {Bidders} may refer to the *Vendor Registration and Submit a Quote* QRGs for additional instructions detailing how to enroll in **NJSTART** and submit a **NJSTART** electronic Quote. QRGs are located on the [NJSTART Vendor Support Page.](#)"

The *Submit a Quote* QRG provides Vendors {Bidders} with step by step instructions and screenshots on how to locate a Bid Solicitation, how to create a Quote and upload attachments, and how to submit a Quote in response to that Bid Solicitation.² See QRG entitled *Submit a Quote* at. 10-20. Importantly, the QRG provides instructions on how to resume work on a previously started Quote noting:

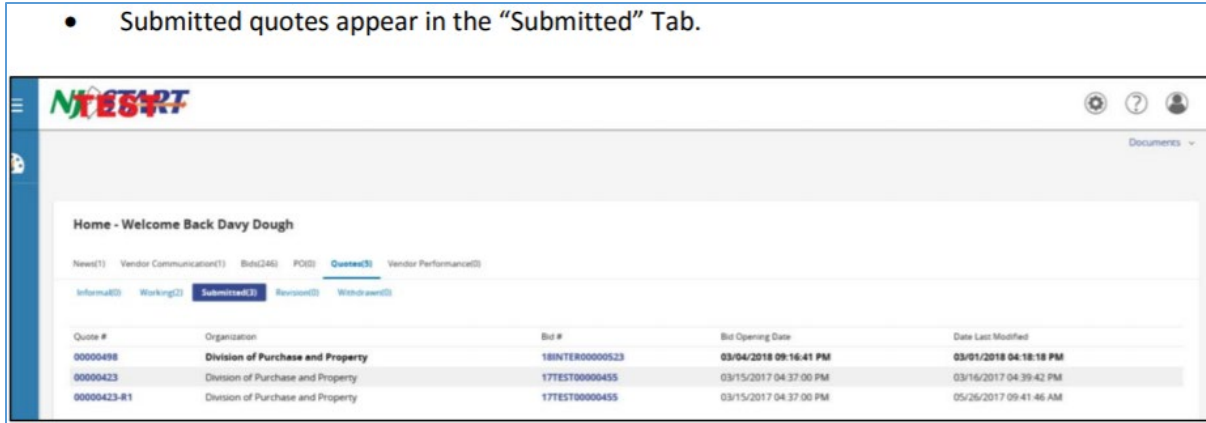
- Keep in mind the following requirements when submitting your Quotes online using **NJSTART**:
 - Your Quote must be submitted prior to bid opening date and time;
 - You should not consider your Quote submitted until you receive email confirmation; and
 - After submitting your Quote, you should always verify that its status code has changed to "Submitted" as shown in the screen shot above.
 - If you are not ready to submit your Quote, you may hit Cancel Quote, Back to Bid, or go back to your home screen by clicking on the clock icon  to the left of your screen. If you select one of these options, please NOTE that your Quote has not been submitted.
 - All saved Quotes in progress, can be found by clicking on the "Working" tab. Go back to your home screen by clicking on the clock icon , then click on "Quotes." Then click on "Working."

- When you are ready to resume working on the Quote, click on the Quote # (see below

NOTE: If you log out while working on a Quote and want to find it, also check the "Revision" tab.



² <https://www.state.nj.us/treasury/purchase/njstart/pdf/Create-a-Quote.pdf>



In the request for reconsideration ARG asserts that it uploaded documents comprising its Quote to *NJSTART* on June 7, 2020, and that it submitted that Quote in response to the Bid Solicitation. Accordingly, the Division’s Hearing Unit undertook an additional review of the information available through *NJSTART*. As shown in the series of screenshots below taken from the *NJSTART* system, the review revealed ARG created a total of seven Quotes in response to the subject Bid Solicitation, although ARG’s request for reconsideration relates only to the quotes created by ARG on June 7, 2020, each of which will be addressed in detail below.³

Quote #	Bid #	Description	Entered Date	Vendor
00004171	20DPP00525	T0777 - Snow Plowing and Spreading Services - NJDOT	04/28/2020	Atlantic Recycling Group
00004270	20DPP00525	T0777 - Snow Plowing and Spreading Services - NJDOT	05/12/2020	Atlantic Recycling Group
00004271	20DPP00525	T0777 - Snow Plowing and Spreading Services - NJDOT	05/12/2020	Atlantic Recycling Group
00004544	20DPP00525	T0777 - Snow Plowing and Spreading Services - NJDOT	06/07/2020	Atlantic Recycling Group
00004545	20DPP00525	T0777 - Snow Plowing and Spreading Services - NJDOT	06/07/2020	Atlantic Recycling Group
00004548	20DPP00525	T0777 - Snow Plowing and Spreading Services - NJDOT	06/07/2020	Atlantic Recycling Group
00004549	20DPP00525	T0777 - Snow Plowing and Spreading Services - NJDOT	06/07/2020	Atlantic Recycling Group

Quote #00004544

A review of Exhibit 1 included with Mr. Kyprianou’s certification reveals that at 3:39 p.m. ARG created Quote #00004544. Through its review of the *NJSTART* eProcurement system, the Hearing Unit was able to verify that ARG did create Quote #00004544 at approximately 3:39 p.m. on June 7, 2020. ARG did not upload or attach any documents to Quote #00004544, nor did it submit Quote #00004544. Rather, as shown in the screenshot of the *NJSTART* system below, Quote #00004544 is shown as “In progress”.

³ For the sake of completeness I note that Quote #0004171 created on April 28, 2020; Quote #0004270 created on May 12, 2020; and, Quote #0004271 created on May 12, 2020 did not contain any attachments and are all shown as “In progress”.

Quote 00004544 - Atlantic Recycling Group

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

Header Information

Quote #: 00004544	Bid #: 20DPP00525	Status: In progress
Organization: Division of Purchase and Property	Delivery Days: 0	Discount Percent: 0.0
Description: T0777 - Snow Plowing and Spreading Services - NJDOT	Alternate Bid: No	Shipping Terms:
Bid Flag: Yes	Payment Term:	Quote Total: \$0.00
Freight Terms:	Info Contact:	
Ship Via Terms:	User Last Updated: Thomas Ippolito	User Created: Thomas Ippolito
Promised Date:		
Comment:		
Date Last Updated: 06/07/2020 03:39:30 PM		
Print format: Quote		

Vendor accepts the terms & conditions with no exceptions.

Bid Acknowledgements:

Quote 00004544 - Atlantic Recycling Group

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

The Vendor (Bidder) should select the "Confidential" option for attachments on the Attachments Tab to request that the documents not be displayed publicly through NJSTART. Note: Marking an attachment as "Confidential" in NJSTART shall not constitute the Vendor's (Bidder's) designation of the attachment as exempt from public disclosure under OPRA and/or the common law.

Files

Click Add File to add file attachments.

No File Attachments

Forms

Click Add Form to add form attachments.

No Form Attachments

Add File Add Form

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SONJ_SONJ_PROD_BUYSPPEED_1_bso

Quote #00004545

A review of Exhibit 1 included with Mr. Kyprianou's certification reveals that at 3:40 p.m. ARG created Quote #00004545. ARG uploaded and attached at least one document to Quote #00004545, and then, at 3:45 p.m. ARG re-logged into *NJSTART* and continued attaching documents to Quote #00004545 until 4:13 p.m. Through its review *NJSTART* eProcurement system, the Hearing Unit was able to verify that ARG did create Quote #00004545 on June 7, 2020. ARG did upload and attach seventeen (17) documents to Quote #00004545. However, ARG did not submit Quote #00004545. Rather, as shown in the screenshots below, Quote #00004545 is shown as "In progress".

Quote 00004545 - Atlantic Recycling Group

General Items Questions Subcontractors Terms & Conditions Attachments(17) Evaluations Preference Reminders Summary [Back to Bid](#)

Header Information

Quote #: 00004545 **Bid #:** 20DPP00525 **Status:** In progress

Organization: Division of Purchase and Property

Description: T0777 - Snow Plowing and Spreading Services - NJDOT **Delivery Days:** 0 **Discount Percent:** 0.0

Bid Flag: Yes **Alternate Bid:** No **Shipping Terms:**

Freight Terms:

Ship Via Terms: **Payment Term:**

Promised Date **Info Contact:** **Quote Total** \$2.00

Comment:

Date Last Updated: 06/07/2020 03:42:10 PM **User Last Updated:** Thomas Ippolito **User Created:** Thomas Ippolito

Print format: Quote

Vendor has not reviewed terms & conditions.

Bid Acknowledgements:

Quote 00004545 - Atlantic Recycling Group

General Items Questions Subcontractors Terms & Conditions **Attachments(17)** Evaluations Preference Reminders Summary [Back to Bid](#)

The Vendor (Bidder) should select the "Confidential" option for attachments on the Attachments Tab to request that the documents not be displayed publicly through NJSTART. Note: Marking attachment as "Confidential" in NJSTART shall not constitute the Vendor's (Bidder's) designation of the attachment as exempt from public disclosure under OPRA and/or the common law.

Files

Name	Description	Confidential	Order	Attached By	Attached Date
ARG T0777 ARG AA_302 Employee Information Report Signed 04-24-2020.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG ACORD Form Conover Beyer 05-13-2020-1.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG ACORD Form Franchino 05-15-2020-2.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Bid Amendment 1_2 05-14-2020-1.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Bid Amendment 2_2 05-28-2020.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Chapter 51 Exec Order 117 signed 04-27-2020.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Disclosure Investigations and Other Actions signed 04-27-2020.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Disclosure Investment Activities Iran signed 04-27-2020.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Offer and Acceptance Page signed 06-03-2020.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Revised Attachment 1 - Experience of Vendor Bidder mu 06-03-2020.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Revised Attachment 1 - Thomas Ippolito Resume and Experience 06-03-2020.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Revised Bid Solicitation Checklist_1 06-31-2020.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Source Disclosure Form signed 04-27-2020.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Subcontractor Utilization Form mu 04-27-2020.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 Atlantic Recycling Group Business Regts Cert 06-03-2020.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG State-Supplied Price Sheet - Snow Plowing and Hauling Services mu 06-03-2020.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG State-Supplied Price Sheet - Spreading Services mu 06-03-2020.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020

Forms

Click Add Form to add form attachments.

No Form Attachments

Save & Continue Add File Add Form

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 SONL_SONJ_PROD_BUYSPFEED_1_bsp

Quote #0004546

While it appears from Exhibit 1 to Mr. Kyprianou's certification that ARG uploaded documents to Quote #0004546, the records contained within **NJSTART** indicate that this Quote was not saved as there is no record of Quote #0004546 within the **NJSTART** eProcurement system. As part of the Hearing Unit's review of this request for reconsideration, the Hearing Unit contacted Periscope Holdings, Inc. (Periscope), the State of New Jersey's Vendor {Contractor} on T2879 – EProcurement System Transformation. Periscope confirmed that there was no Quote #0004546 saved within the **NJSTART** eProcurement system.

Quote #0004548

A review of Exhibit 1 included with Mr. Kyprianou's certification reveals that at 5:06 p.m. ARG created Quote #0004548. ARG uploaded and attached documents to Quote #0004548 until approximately 5:33 p.m. Through its review **NJSTART** eProcurement system, the Hearing Unit was able to verify that ARG did create Quote #0004548 on June 7, 2020. ARG did upload and attach eighteen (18) documents to Quote #0004548. However, ARG did not submit Quote #0004548. Rather, as shown in the screenshots below, Quote #0004548 is shown as "In progress".

Quote 0004548 - Atlantic Recycling Group

General Items Questions Subcontractors Terms & Conditions Attachments(18) Evaluations Preference Reminders **Summary** [Back to Bid](#)

Header Information

Quote #: 0004548	Bid #: 20DPP00525	Status: In progress
Organization: Division of Purchase and Property	Delivery Days: 0	Discount Percent: 0.0
Description: T0777 - Snow Plowing and Spreading Services - NJDOT	Alternate Bid: No	Shipping Terms:
Bid Flag: Yes	Payment Term:	Quote Total \$0.00
Freight Terms:	Info Contact:	User Created: Thomas Ippolito
Ship Via Terms:	User Last Updated: Thomas Ippolito	
Promised Date		
Comment:		
Date Last Updated: 06/07/2020 05:06:22 PM		
Print format: Quote		

Vendor has not reviewed terms & conditions.
Bid Acknowledgements:

Quote 00004548 - Atlantic Recycling Group

General Items Questions Subcontractors Terms & Conditions **Attachments(18)** Evaluations Preference Reminders Summary [Back to Bid](#)

i The Vendor (Bidder) should select the "Confidential" option for attachments on the Attachments Tab to request that the documents not be displayed publicly through NJSTART. Note: Marking attachment as "Confidential" in NJSTART shall not constitute the Vendor's (Bidder's) designation of the attachment as exempt from public disclosure under OPRA and/or the common law.

Files

Name	Description	Confidential	Order	Attached By	Attached Date
T0777 ARG AA, 302 Employee Information Report Signed 04-24-2020-1.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG ACORD Form Conover Beyer 05-13-2020-4.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG ACORD Form Franchino 05-15-2020-4.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Bid Amendment 1,2 05-14-2020-3.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Bid Amendment 2,2 05-28-2020-2.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Chapter 51 Exec Order 117 signed 04-27-2020-5.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Disclosure Investigations and Other Actions signed 04-27-2020-2.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Disclosure Investment Activities Iran signed 04-27-2020-2.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Offer and Acceptance Page signed 06-03-2020-3.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Ownership Disclosure mu 04-27-2020-1.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Revised Attachment 1 - Experience of Thomas Ippolito 06-03-2020-2.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Revised Attachment 1 - Experience of Vendor Bidder mu 06-03-2020-2.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Revised Bid Solicitation Checklist_1 05-31-2020-3.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Source Disclosure Form signed 04-27-2020-3.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG State-Supplied Price Sheet - Snow Plowing and Hauling Services mu 06-07-2020.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG State-Supplied Price Sheet - Spreading Services mu 06-03-2020-4.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 ARG Subcontractor Utilization Form mu 04-27-2020-3.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020
T0777 Atlantic Recycling Group Business Regs Cert 06-03-2020-2.pdf (view details)		<input checked="" type="checkbox"/>	0	Thomas Ippolito	06/07/2020

Forms

i Click **Add Form** to add form attachments.

No Form Attachments

[Save & Continue](#) [Add File](#) [Add Form](#)

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Quote #00004549

Finally, a review of Exhibit 1 included with Mr. Kyprianou’s certification reveals that at 5:36 p.m. ARG created Quote #00004549. ARG did not upload or attach any documents to Quote #00004549, but did submit Quote #00004549 as verified by the automatic email response received by Ms. Cicero. See screenshot on page 3 above. Through its review of the *NJSTART* eProcurement system, the Hearing Unit was able to verify that ARG did create Quote #00004549 at approximately 3:39 p.m. on June 7, 2020 and that no attachments were included with that Quote. As shown in the screenshots below, in contrast to the other Quotes created by ARG that were not submitted as show as status of “In progress”, the status of Quote #00004549 is shown as “Submitted”.

Quote 00004549 - Atlantic Recycling Group

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

Header Information

Quote #: 00004549 **Bid #:** 20DPP00525 **Status:** Submitted

Organization: Division of Purchase and Property

Description: T0777 - Snow Plowing and Spreading Services - NJDOT **Delivery Days:** 0 **Discount Percent:** 0.0

Bid Flag: Yes **Alternate Bid:** No **Shipping Terms:**

Freight Terms:

Ship Via Terms: **Payment Term:**

Promised Date **Info Contact:** **Quote Total** \$2.00

Comment:

Date Last Updated: 06/07/2020 05:38:15 PM **User Last Updated:** Thomas Ippolito **User Created:** Thomas Ippolito

Print format: Quote

Vendor accepts the terms & conditions with no exceptions.

Bid Acknowledgements:

Quote 00004549 - Atlantic Recycling Group

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

Files

No File Attachments

Forms

No Form Attachments

Add File Add Form

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 SONL_SONJ_PROD_BUYSPPEED_1_bso

Importantly, as confirmed by Exhibit 1 to Mr. Mr. Kyprianou’s certification, ARG did not upload or attach any documents to Quote #00004549. See screenshot below from Kyprianou’s certification, Exhibit 1, lines 14493-14503.

14493	https://www.njstart.gov/bso/quotes/vendor/vquoteItemGeneral.sdo?quoteId=00004549	6/7/2020 5:36 PM
14494	https://www.njstart.gov/bso/quotes/vendor/vquoteItemGeneral.sdo	6/7/2020 5:36 PM
14495	https://www.njstart.gov/bso/quotes/vendor/vquoteItemGeneral.sdo	6/7/2020 5:36 PM
14496	https://www.njstart.gov/bso/quotes/vendor/vquoteTermCondition.sdo?quoteId=00004549	6/7/2020 5:37 PM
14497	https://www.njstart.gov/bso/quotes/vendor/vquoteTermCondition.sdo	6/7/2020 5:37 PM
14498	https://www.njstart.gov/bso/quotes/vendor/vquoteSummary.sdo?quoteId=00004549	6/7/2020 5:37 PM
14499	https://www.njstart.gov/bso/quotes/vendor/vquoteSummary.sdo	6/7/2020 5:38 PM
	https://www.njstart.gov/bso/share/report.sdo?report=RdQa1PQw6aXbjout8g8abxsaQLR7zYJc6W3QX5K6IiKl5k1Wy-	
14500	HG1A07YCyEEGVVB3AfClqQew&qteNbr=00004549&forwardName=formalQuotePrint&bidOrgId=AGENCY	6/7/2020 5:39 PM
14501	https://www.njstart.gov/bso/seller/bidDetail.sdo?docId=20DPP00525&destination=detail	6/7/2020 5:40 PM
14502	https://www.njstart.gov/bso/quotes/vendor/vquoteSummary.sdo	6/7/2020 5:53 PM
14503	https://www.njstart.gov/bso/logout.sdo	6/7/2020 5:53 PM

With respect to Quote #00004544, Quote #00004545, and Quote #00004548, 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 shown in Section 3.5.8 of the *Submit a Quote* QRG. Had ARG 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 screenshot for Quote #00004549 above.

The *NJSTART* eProcurement 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 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*. Although the Division has broad discretion to select among qualified and responsive bidders in public contracting matters, the discretion afforded to the Director, “is not limitless. ‘In line with the policy goal of thwarting favoritism, improvidence, extravagance, and corruption, the Division may not award a contract to a bidder whose proposal deviates materially from the RFP’s requirements.’” 17DPP00144, 454 N.J. Super. at 559 (quoting Barrick v. State, 218 N.J. 247, 258-59 (2014)). For that reason, the Division’s governing regulations mandate stringent enforcement to maintain the equal footing of all Bidders and to ensure the integrity of the State’s bidding process. Notably, “to be eligible for consideration for award of contract, the bidder’s proposal shall conform to the following requirements or be subject to designation as a non-responsive proposal for non-compliance” including “all RFP-required certifications, forms, and attachments, completed and signed as required” and “all RFP-required pricing information.” N.J.A.C. 17:12-2.2(a)(4), (6). If the requirements of N.J.A.C. 17:12-2.2(a) are not met, a Quote “shall be subject to automatic rejection.” N.J.A.C. 17:12-2.2(b). Thus, ARG’s bid was deemed non-responsive in accordance with the “well-established” principle “that a publicly-advertised contract should not be awarded to a bidder who has failed to meet material bid requirements.” Waste Mgmt. of N.J., Inc. v. Morris Cty. Mun. Utils. Auth., 433 N.J. Super. 445, 452 (App. Div. 2013).

Moreover as noted in the Division’s June 15, 2020 Final Agency Decision, disclosure of a Vendor’s {Bidder’s} ownership is statutorily required information that must be submitted with the Vendor’s {Bidder’s} Quote. The New Jersey Legislature, in implementing N.J.S.A. 52:25-24.2, mandated the requirements that a Vendor {Bidder} must comply with in order to enter into a contract with the State. To make the process of complying with the statutory requirements easier, the Division provides the bidding community with the *Ownership Disclosure Form*. In In re Scheduled Award of Term Contract T2813 RFP 12-X-22361 Lab. Testing Serv., the court held the Division “is charged with fulfilling its statutory duties, which includes ensuring compliance with N.J.S.A. 52:25-24.2.” No. A-1336-12, 2013 N.J. Super. Unpub. LEXIS 1698, at *29-30 (App. Div. July 10, 2013). “While a bidder may properly be permitted to clarify or explain the contents of its proposal post-opening, supplying an essential missing item from a bid is not permissible.” Id. at *20 (citing In re Protest of Award of On-Line Games Prod. & Operation Servs. Contract, 279 N.J. Super. 566, 597-98 (App. Div. 1995)). The Division’s governing regulations and case law mandate stringent enforcement to maintain the equal footing of all Vendors {Bidders} and to ensure the integrity of the State’s bidding process.

Here, unfortunately, ARG submitted Quote #00004549 without any forms or documents attached.⁴ The Hearing Unit's review of the *NJSTART* eProcurement system and Mr. Kyprianou's certification confirmed this finding. Accordingly, ARG's Quote was properly rejected by the Division's Proposal Review Unit for failure to submit the mandatory *Ownership Disclosure Form* or the required pricing information with its Quote.

Despite ARG'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 ARG's un-submitted "In progress" Quotes.

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 ARG's request for eligibility to participate in the competition for the subject Bid Solicitation.

Sincerely,



Rachel U. Doobraj
Acting Chief Hearing Officer

c: M. Dunn
R. Regan
K. Popso
K. Centofanti
D. Rodriguez
A. Nelson

⁴ Should ARG wish to review the submitted Quote, the Division has created and provided to the bidding community a QRG entitled *How to Review a Submitted Quote*. <https://www.state.nj.us/treasury/purchase/njstart/pdf/HowtoReviewaSubmittedQuote.pdf>. 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. Additionally, ARG may review the "In progress" Quotes by following the instruction on the *Submit a Quote* QRG.