



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
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May 23, 2018

Via Electronic Mail [[luz@melkass.com](mailto:luz@melkass.com)] and USPS Regular Mail

Cesar Acosta  
Leo's Trucking  
104 West Clinton Street  
Dover, NJ 07801

Re: I/M/O Bid Solicitation #: 18DPP00222 Leo's Trucking  
Protest of Notice of Proposal Rejection  
Bid Solicitation Title: T2924 Snow Plowing Services by Area - NJDOT

Dear Mr. Acosta:

This letter is in response to your email and fax of May 2, 2018, on behalf of Leo's Trucking ("Leo's Trucking") to the Division of Purchase and Property's ("Division") Hearing Unit. In that correspondence, Leo's Trucking submits a number of documents in response to the Notice of Proposal Rejection issued by the Division's Proposal Review Unit for Bid Solicitation #18DPP00222 – T2924 Snow Plowing Services by Area - NJDOT ("Bid Solicitation"). The record of this procurement reveals that Leo's Trucking's Quote was rejected for failing to submit an *Ownership Disclosure Form, Disclosure of Investment Activities in Iran Form*, or required pricing information with its Quote.

By way of background, on February 13, 2018, 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 services for a total of fourteen (14) Maintenance Areas across three (3) Regions throughout the State 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

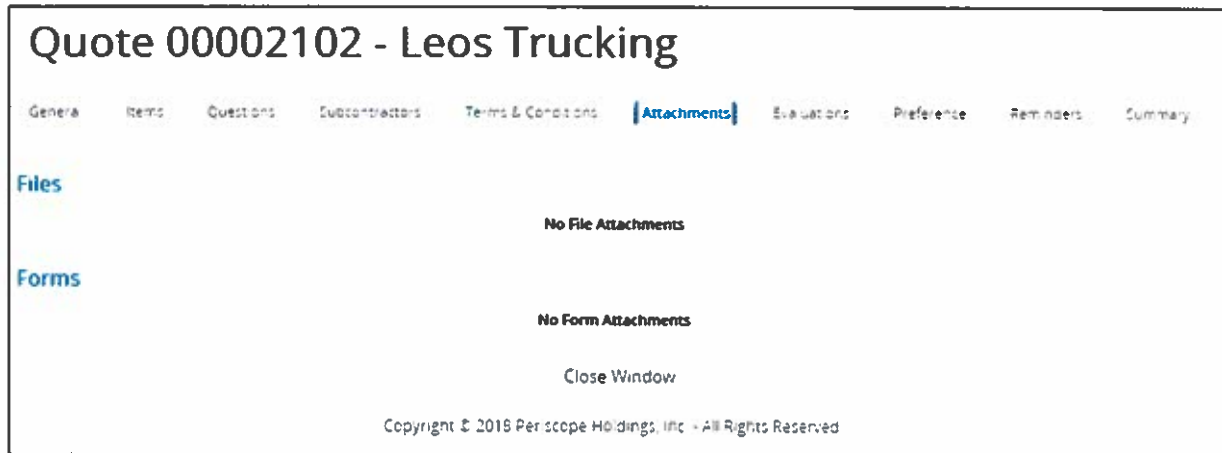
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<sup>1</sup> For consistency, this final agency decision uses terminology employed by the State of New Jersey's **NJSTART** eProcurement system. For ease of reference, the following is a table which references the **NJSTART** term and the statutory, regulatory and/or legacy term.

Solicitation are most advantageous to the State, price and other factors considered. Ibid.

On March 16, 2018, the Bureau issued Bid Amendment #1 responding to the questions posed by potential Vendors {Bidders}. On April 12, 2018, the Division's Proposal Review Unit opened 21 Quotes submitted before the submission deadline of 2:00 pm eastern time.

A review of the Quotes reveals Leo's Trucking uploaded a Quote via **NJSTART**. Leo's Trucking submitted Quote 00002102, which it uploaded at 1:26:42 p.m. on March 16, 2018. As shown in the screenshot below, the Quote did not include any attached documents or forms:



However, as shown below, Leo's Trucking did complete the "Item tab":

Item Information									
Print Sequence # 1.0 : ( 968 - 72 ) The Vendor (Bidder) must enter a Unit Cost of \$1.00 for each price line item on the Items Tab. The Vendor (Bidder) must submit its pricing as an attachment using the State-supplied price sheet/schedule(s) accompanying this Bid Solicitation (RFP) and located on the Attachments Tab. Please refer to Bid Solicitation (RFI) Section 4.4.3 for more information.									
Quantity	UOM	Unit Cost	Discount %	Tax Rate	Freight	Extended Amount	No Bid	No Charge	See Quote Attachments
1.0	HOURL	\$179.75	0.0%	0.0%	\$0.00	\$179.75	No	No	No

After review, the Division's Proposal Review Unit issued Leo's Trucking a Notice of Proposal Rejection, advising Leo's Trucking that its Quote was rejected because it was missing required certifications, forms, and attachments. Specifically, Leo's Trucking's Quote was missing a completed *Ownership Disclosure Form*, a *Disclosure of Investments in Iran Form*, and pricing information.

<b>NJSTART Term</b>	<b>Statutory, Regulatory and/or Legacy Term</b>
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

On May 2, 2018, in response to the Notice of Proposal Rejection, Leo's Trucking sent the Division an email and fax with a number of missing documents and other documents as follows:

- A copy of the Notice of Proposal Rejection,
- A print-out from *NJSTART* showing Quote 00002102 and the completed Items Tab information shown above,
- A completed *Disclosure of Investment Activities in Iran Form*, dated April 15, 2018,
- An *Offer and Acceptance* page, and
- Bid Solicitation Attachment 1, Vendor {Bidder} Equipment Form, and Bid Solicitation Attachment 2, Vendor {Bidder} Experience Form.

In consideration of Leo's Trucking's protest, I have reviewed the record of this procurement, including the Bid Solicitation, Leo's Trucking's 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 shall<sup>2</sup> conform to the following requirements or be subject to designation as a non-responsive proposal for non-compliance:  
...  
4. Contain all RFP-required certifications, forms, and attachments, completed and signed as required. An RFP may designate certain forms and/or certifications that need not be included in the bidder's proposal but that must be provided by a successful bidder upon request prior to an award of contract;

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

The subject solicitation was comprised of the Bid Solicitation, other documents and mandatory forms which were specifically addressed in Bid Solicitation Section 4.0 *Quote {Proposal} Preparation and Submission* which states in pertinent part:

Vendor's {Bidder's} failure to complete, sign and submit the forms in Section 4.4.1.2 shall be cause to reject its Quote {Proposal} as non-responsive.

[Bid Solicitation § 4.4.1.2 *NJ Standard Bid Solicitation {RFP} Forms Required With The Quote {Proposal}*.]

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<sup>2</sup> "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*.

Among those forms required to be submitted with the Quote are the *Ownership Disclosure Form* discussed in Bid Solicitation Section 4.4.1.2.1, the *Disclosure of Investment Activities in Iran Form* discussed in Bid Solicitation Section 4.4.1.2.2, and the State-supplied price sheet/schedule discussed in Bid Solicitation Section 4.4.5.

## 1. Ownership Disclosure Form

With respect to ownership, the New Jersey Legislature, in implementing N.J.S.A. 52:25-24.2, mandated that a Vendor {Bidder} must supply its ownership information, prior to or with its Quote, to be eligible to enter into a Blanket P.O. with the State. N.J.S.A. 52:25-24.2 states in pertinent part:

No corporation, partnership, or limited liability company shall be awarded any [Blanket P.O.] nor shall any agreement be entered into for the performance of any work or the furnishing of any materials or supplies, the cost of which is to be paid with or out of any public funds, by the State, or any county, municipality or school district, or any subsidiary or agency of the State, or of any county, municipality or school district, or by any authority, board, or commission which exercises governmental functions, unless prior to the receipt of the bid or accompanying the bid, of said corporation, said partnership, or said limited liability company there is submitted a statement setting forth the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. If one or more such stockholder or partner or member is itself a corporation or partnership or limited liability company, the stockholders holding 10 percent or more of that corporation's stock, or the individual partners owning 10 percent or greater interest in that partnership, or the members owning 10 percent or greater interest in that limited liability company, as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member, exceeding the 10 percent ownership criteria established in this act, has been listed.

The *Ownership Disclosure Form* is specifically addressed in Bid Solicitation Section 4.4.1.2.1 *Ownership Disclosure Form* which states:

Pursuant to N.J.S.A. 52:25-24.2, in the event the Vendor {Bidder} is a corporation, limited liability company, or partnership, the Vendor {Bidder} must complete an Ownership Disclosure Form.

A current completed Ownership Disclosure Form must be received prior to or accompany the submitted Quote {Proposal}. A Vendor's {Bidder's} failure to submit the completed and signed form with its Quote {Proposal} will result in the rejection of the Quote {Proposal} as non-responsive and preclude the award of a Blanket P.O. {Contract} to said Vendor {Bidder} unless the Division has on file a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the Quote {Proposal} submission deadline for this procurement. If any ownership change has occurred within the last six (6) months, a new Ownership

Disclosure Form must be completed, signed and submitted with the Quote {Proposal}.

....

Vendors {Bidders} using **NJSTART** to submit a Quote {Proposal} shall make the appropriate certification on the "Maintain Terms and Categories" Tab within its profile by checking the applicable box and, if required, completing and attaching the shortened Ownership Disclosure Form. Vendors {Bidders} not using **NJSTART** to submit a Quote {Proposal} must complete the full Ownership Disclosure Form located on the [Division's website](#). This form is also available in [NJSTART \(www.njstart.gov\)](#).

In order to make this process of complying with the legislative requirement easier, the Division provides to the bidding community an *Ownership Disclosure Form* to be completed, signed and submitted with the Quote.

As an alternative to the submission of the *Ownership Disclosure Form*, as noted in Bid Solicitation Section 4.4.1.2.1 above, Vendors {Bidders} using **NJSTART** to submit a Quote are required to make the appropriate certification regarding ownership disclosure on the "Maintain Terms and Categories" Tab within its profile. As shown in the screenshots below, Leo's Trucking did not complete the Ownership Disclosure category.

Vendor Profile - Leos Trucking

Organization Information | Users | Address | Commodity Codes and Services | Regions | **Terms & Categories** | Attachments | Vendor Performance

### Terms and Categories Information

#### Terms

Payment Terms:  
 Freight Terms:  
 Shipping Method:  
 Shipping Terms:

#### Categories & Certifications

**Category: 1. Primary Business Function - (MANDATORY FIELD)**

Other - Enter Description of Business in Notes Below  
 Notes:  
 Show/Remove

**Category: 2. Prompt Payment Exemption**

Description: Leave this Category blank and skip to Category: 3 UNLESS you represent a government entity or public utility.  
 Select if you are a State of NJ, employee or represent a government entity

**Category: 3. Business Formation (MANDATORY FIELD)**

Individually Owned (including Sole Proprietorship)

**Category: 4. Electronic Funds Transfer Certification (MANDATORY FIELD)**

Description: I certify that I am an appointed agent of the vendor referenced and that I hereby authorize the State of NJ to initiate payments to the bank acct and bank named in the electronic funds transfer (if and when the information is provided). This authority is to remain in full force and effect until the State of NJ receives notification of any changes, and in such a manner as to afford the State of NJ a reasonable opportunity to A/C.  
 Select if you intend to enter the data for EFT payment and agree with the statement above. To enter banking data, you must log in after the initial registration process has been completed, add correct A/Pmt address and check the EFT Enabled box.

**Category: 5. Tax ID Certification (Substitute W9) (MANDATORY FIELD)**

Description: Under Penalties of Perjury, I certify that (1) The number provided via this registration process is my correct taxpayer ID number AND (2) I am not subject to backup withholding AND (3) I am a U. S. Citizen or a defined U. S. Person for federal tax purposes.  
 Select if you agree with the statement above.

**Category: Certification: Business Registration**

Description: This Certification Status is updated daily. If your business is not registered, or if your registration is not active, please see the following link:

Because Leo's Trucking did not complete the Ownership Disclosure category within **NJSTART**, it was required to submit the form with its Quote, or attach the form to its Vendor Profile within **NJSTART**. As shown in the screenshot below, Leo's Trucking did not upload the *Ownership Disclosure Form* to its profile.

Vendor Profile - Leos Trucking

Organization Information | Users | Address | Commodity Codes and Services | Regions | Terms & Categories | **Attachments** | Vendor Performance

### Attachments Information

No Attachments found for this vendor.

#### Forms

No Form Attachments

Similarly, as noted above, Leo's Trucking did not submit an *Ownership Disclosure Form* with its Quote.

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, Leo's Trucking did not comply with any of the options available to it for the submission of ownership information. Accordingly, Leo's 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.

## 2. Disclosure of Investment Activities in Iran Form

Similarly, with respect to the submission of the *Disclosure of Investment Activities in Iran Form*, the New Jersey Legislature has mandated that "[a] State agency shall require a person or entity that submits a bid or Quote or otherwise proposes to enter into or renew a [Blanket P.O.] to certify, at the time the bid is submitted or the [Blanket P.O.] is renewed, that the person or entity is not identified on a list created pursuant to subsection b. of section 3 [C.52:32-57] of this act as a person or entity engaging in investment activities in Iran described in subsection f. of section 2 [C.52:32-56] of this act." N.J.S.A. 52:32-58(a).

The *Disclosure of Investment Activities in Iran Form* is specifically addressed in Bid Solicitation Section 4.4.1.2.2 *Disclosure of Investment Activities in Iran Form* which states:

Pursuant to N.J.S.A. 52:32-58, the Vendor {Bidder} must utilize this Disclosure of Investment Activities in Iran form to certify that neither the Vendor {Bidder}, nor one of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32-56(e)(3)), is listed on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither the Vendor {Bidder}, nor one of its parents, subsidiaries, and/or affiliates, is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If the Vendor {Bidder} is unable to so certify, the Vendor {Bidder} shall provide a detailed and precise description of such activities as directed on the form. A Vendor's {Bidder's} failure to submit the completed and signed form with its Quote {Proposal} will result in the rejection of the Quote {Proposal} as non-responsive and preclude the award of a Blanket P.O. {Contract} to said Vendor {Bidder}.

Vendors {Bidders} using **NJSTART** to submit a Quote {Proposal} shall make the appropriate certification on the "Maintain Terms and Categories" Tab within its profile by checking the applicable box and, if required, completing and attaching the shortened Disclosure of Investment Activities in Iran form. Vendors {Bidders} not using **NJSTART** to submit a Quote {Proposal} must complete the full Disclosure of Investment Activities in Iran form located on the [Division's website](#). The full version of the form is also available in [NJSTART \(www.njstart.gov\)](#).

Again, in order to make this process of complying with the legislative requirement easier, the Division provides to the bidding community a *Disclosure of Investment Activities in Iran Form* to be completed, signed and submitted with the Quote.

As an alternative to the submission of the *Disclosure of Investment Activities in Iran Form*, as noted in Bid Solicitation Section 4.4.1.2.2 above, Vendors {Bidders} using **NJSTART** to submit a Quote are required to make the appropriate certification regarding investment activities in Iran on the "Maintain Terms and Categories" Tab within its profile. As shown in the screenshot above, Leo's Trucking did not complete the Disclosure of Investment Activities in Iran category. Because Leo's Trucking did not complete the Disclosure of Investment Activities in Iran category within **NJSTART**, it was required to submit the *Disclosure of Investment Activities in Iran Form* with its Quote, or attach the form to its Vendor Profile within **NJSTART**. The record indicates that Leo's Trucking's Quote did not include a completed and signed *Disclosure of Investment Activities in Iran Form* with its Quote, nor was the form contained within Leo's Trucking's **NJSTART** Vendor Profile.

The Division does not have the power to waive the legislative requirement that a Vendor {Bidder} certify with its Quote that it is not engaged in investment activities in Iran. Only the New Jersey Legislature can change a requirement it has mandated. Accordingly, Leo's Trucking's Quote was properly rejected by the Division's Proposal Review Unit for failure to submit the mandatory *Disclosure of Investment Activities in Iran Form* with its Quote.

### 3. State-supplied Price Sheet/Schedule

Finally, with respect to the submission of the State-supplied price sheet/schedule, Bid Solicitation Section 4.4.5 *Price Schedule/Sheet* states "[t]he Vendor {Bidder} must submit its pricing using the State-supplied price sheet/schedule(s) accompanying this Bid Solicitation {RFP} and located on the "Attachments" Tab." Further, Vendors {Bidders} were advised:

#### 4.4.5.2 PRICE SHEET/SCHEDULE ATTACHMENT INSTRUCTIONS

The Vendor {Bidder} must submit its pricing using the format set forth in the State-supplied price sheet/schedule (s) accompanying this Bid Solicitation {RFP}.

The Vendor {Bidder} is not required to submit pricing for all line items in order to be considered for award. The Vendor {Bidder} may submit pricing for one (1) or multiple line items.

The Vendor {Bidder} must submit an all-inclusive hourly rate to provide snow plowing services with one of the following options:

- A. Snow plowing truck only; or
- B. Snow plowing truck and equipment as defined in Section 3.11.2 of this Bid Solicitation {RFP}

The Vendor {Bidder} must submit an all-inclusive hourly rate for a Snow Plowing Superintendent.

In the event that a Vendor {Bidder} using **NJSTART** to submit a Quote {Proposal} uploads a price sheet/schedule attachment and completes the "Items" Tab in **NJSTART** (instead of entering a Unit Cost of \$1.00 as instructed), the price sheet/schedule attachment will govern.



The State-supplied price sheet/schedule included with the Bid Solicitation included fourteen price lines, corresponding to the fourteen Maintenance Areas. For example, the first two price lines are as follows:

18DPP00222 SNOW PLOWING SERVICES BY AREA - NIDOT PRICE SHEET SCHEDULE - (BID SOLICITATION (RFP) SECTION 4.4.5)						
VENDOR (BIDDER) NAME:						
SNOW PLOWING SERVICES						
LINE NO	DESCRIPTION	QTY	UNIT	ALL-INCLUSIVE HOURLY RATE SNOW PLOWING-TRUCK ONLY	ALL-INCLUSIVE HOURLY RATE SNOW PLOWING TRUCK & EQUIPMENT	ALL-INCLUSIVE HOURLY RATE SNOW PLOWING SUPERINTENDENT
1	SNOW PLOWING SERVICES - NIDOT NORTHERN REGION-MAINTENANCE AREA 24 COLUMBIA PORT COLDEN YELLOW FRAME HACKETTSTOWN NUMBER OF TRUCKS REQUIRED: 7	1	HOUR			
2	SNOW PLOWING SERVICES - NIDOT NORTHERN REGION-MAINTENANCE AREA 25 WEST ORANGE SUMMIT ELIZABETH NEWARK NUMBER OF TRUCKS REQUIRED: 7	1	HOUR			

Leo Trucking did not submit the State-Supplied Price Sheet with its Quote. Rather, Leo's Trucking submitted pricing by completing the Items Tab on [NJSTART](#), including only a single hourly rate as shown below:

Item Information										
Print Sequence # 1.0 ( 968 - 72 ) The Vendor (Bidder) must enter a Unit Cost of \$1.00 for each price line item on the Items Tab. The Vendor (Bidder) must submit its pricing as an attachment using the State-supplied price sheet/schedule(s) accompanying this Bid Solicitation (RFP) and located on the Attachments Tab. Please refer to Bid Solicitation (RFP) Section 4.4.5 for more information.										
Quantity	UOM	Unit Cost	Discount %	Tax Rate	Freg#	Extended Amount	No Bid	No Charge	See Quote Attachments	
1.0	HOUR	\$179.75	0.0%	0.0%	50.00	\$179.75	NO	NO	NO	

In order for Leo Trucking's Quote to be considered responsive on this requirement, Leo Trucking's failure to submit pricing on the State-supplied price sheet would have to be deemed a minor irregularity. Minor irregularities can be waived pursuant to the authority vested in N.J.A.C. 17:12-2.7(d) and Bid Solicitation Section 1.4.10, *Quote {Proposal} Acceptances and Rejections*. It is firmly established in New Jersey that material conditions contained in bidding specifications may not be waived. Twp. of Hillside v. Sternin, 25 N.J. 317, 324 (1957). In Meadowbrook Carting Co. v. Borough of Island Heights, 138 N.J. 307, 315 (1994), the New Jersey Supreme Court adopted the test for determining materiality as set forth by the court in Township of River Vale v. Longo Construction Co., 127 N.J. Super. 207 (Law Div. 1974). "In River Vale, Judge Pressler set forth a two-part test for determining 'whether a specific noncompliance constitutes a substantial [material] and hence non-waivable irregularity.'" Meadowbrook Carting, supra, 138 N.J. at 315 (quoting River Vale, supra, 127 N.J. Super. at 216). The test to determine if a deviation is material is as follows:

First, whether the effect of a waiver would be to deprive the [government entity] of its assurance that the contract will be entered into, performed and guaranteed according to its specified requirements, and second, whether it is of such a nature that its waiver would adversely affect competitive bidding by placing a bidder in a position of advantage over

other bidders or by otherwise undermining the necessary common standard of competition.

[River Vale, supra, 127 N.J. at 216.]

“If the non-compliance is substantial and thus non-waivable, the inquiry is over because the bid is non-conforming and a non-conforming bid is no bid at all.” In re Protest of Award of On-Line Games Prod. And Operation Servs. Contract, Bid No. 95-X-20175, 279 N.J. Super. 566, 595 (App. Div. 1995). However, the “preliminary inquiry is whether the bid deviates from the RFP. If there is no deviation, the bid must be deemed conforming.” Id. at 594.

By submitting its Quote pricing on the “Items” Tab rather than on the State-Supplied Price Sheet, Leo's Trucking did not provide the 1) the Maintenance Area upon which Leo's Trucking is bidding, or (2) whether the hourly rate submitted by Leo's Trucking is its Quote for (a) Snow Plowing – Truck Only, (b) Snow Plowing Truck & Equipment, or (c) Snow Plowing Superintendent.<sup>3</sup> Leo's Trucking's failure to include all of necessary information with its Quote submission is a material deviation from the requirements of the Bid Solicitation as the Division has no information from which I can determine the maintenance area of the type of service for which Leo's Trucking submitted a Quote. Permitting Leo's Trucking, or any other Vendor {Bidder}, to submit the required information after the Quote opening deadline has passed, would place that Vendor {Bidder} in a position of advantage over other Vendors {Bidders} who timely submitted the required pricing information with the Quote.

#### 4. Conclusion

N.J.S.A. 52:25-24.2, N.J.S.A. 52:32-58, and N.J.A.C. 17:12-2.2 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, Leo's Trucking submitted a Quote without the *Ownership Disclosure Form*, the *Disclosure of Investment Activities in Iran Form*, or the State-supplied price sheet attached and the Division is prohibited from accepting these items after the Quote submission deadline. Notwithstanding Leo's Trucking's interest in competing for this procurement, to allow Leo's Trucking to submit the completed and signed *Ownership Disclosure Form* and the *Disclosure of Investment Activities in Iran Form* after bid opening would violate the Legislative requirements outlined in N.J.S.A. 52:25-24.2 and N.J.S.A. 52:32-58, requirements that the Division is not authorized to waive. Allowing Leo's Trucking to submit

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<sup>3</sup> I note that Leo's Trucking did submit a completed Bid Solicitation Attachment 1, Vendor {Bidder} Equipment Form with the protest. Reviewing the data included on the Items Tab with the information contained in Attachment 1, it appears that Leo's Trucking intended to submit a Quote for the Northern Region, Maintenance Area 28 (including Ramsey, Riverdale, Hanover, Branchville, and Sussex), and that it was intending to bid on the “Snow Plowing – Truck Only” option. However, it is still unclear whether the hourly rate Leo's Trucking included on the Items Tab is the hourly rate for the Trucks, or the hourly rate for the Snow Plowing Superintendent. Therefore, even assuming the State could accept the Bid Solicitation Attachment 1, Vendor {Bidder} Equipment Form document after Quote opening, there remains at least one pricing element missing from Leo Trucking's Quote: either (1) the hourly rate for the trucks or (2) the hourly rate for the superintendent.

required pricing information after bid opening would adversely affect competitive bidding by placing Leo's Trucking in a position of advantage over other bidders and otherwise undermine the necessary common standard of competition. River Vale, supra, 127 N.J. at 216.

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 Proposal. 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 contract. 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), the State of New Jersey's new eProcurement system.

Sincerely,



Maurice A. Griffin  
Acting Director

MAG: REG

c: P. Michaels  
L. Spildener  
M. Groninger