



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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November 24, 2015

Via Email [bulksalt@aol.com and oceanportllc@gmail.com] and USPS Regular Mail

Lisa Stapleford, Vice President
Oceanport, LLC
6200 Philadelphia Pike
P.O. Box 608
Claymont, DE 19703-0608

Re: Protest of Notice of Intent to Award
RFP #16-X-24035: Rock Salt and Treated Salt of Roadways - Statewide

Dear Ms. Stapleford:

This correspondence is in response to your emails of November 5, 2015 and November 6, 2015, on behalf of Oceanport, LLC (Oceanport), to the Procurement Bureau (Bureau) of the Division of Purchase and Property (Division). In those emails, Oceanport protests the October 29, 2015 Notice of Intent to Award (NOI) a contract for Solicitation #16-X-24035: Rock Salt and Treated Salt of Roadways – Statewide. Specifically, Oceanport protests the award of price lines 52, 55, 142 and 145, asserting that it was the low bidder on these lines. Oceanport requests that the Division review the same.

By way of background, the Request for Proposal (RFP) was issued by the Bureau on behalf of the State of New Jersey and Cooperative Purchasing Participants to solicit proposals from qualified bidders for the supply and delivery of bulk quantities of rock salt, treated rock salt, solar salt, treated solar salt, bagged quantities of rock salt and treated rock salt, and solar salt for boiler water treatment. Based upon past usage, the RFP listed estimated quantities of salt that the New Jersey Department of Transportation (DOT) and other using agencies expect to order during an average winter. (RFP § 3.3 *Estimated Usage Quantities*.) The RFP further notes that the DOT will take 50% of the estimated quantity and all other using agencies will take 30% of the estimated quantity. (RFP § 3.4.1 *Agency/Contractor Obligations*.)

The intent of this RFP is to award one contract for each location specified in the RFP conforming to the requirements of the RFP and that is most advantageous to the State, price and other factors considered. (RFP § 1.1 *Purpose and Intent*, RFP § 3.1 *General Information* and Addendum #2 dated September 11, 2015 (emphasis added).) In other words, contracts were awarded on a per location basis, not per product. Because each using agency is being held to a minimum order obligation, the intent of the Bureau is to award only one primary contractor for each location specified in the RFP. In addition, if it is deemed to be in the State's best interest an alternate contract may be awarded for a location. (Addendum #2 dated September 11, 2015.) The agency minimum obligations however shall apply only to the primary contractor. (Addendum #2 dated September 11, 2015.)

For this solicitation, bidders were not required to submit a proposal for all price lines or all products in a price line in order to be considered for a contract award. (RFP § 4.4.7 *Method of Bidding*.) In order to determine the lowest responsive bidder for each location, proposals were evaluated as follows:

- (A) Price lines where multiple bidders submitted proposals, but each proposal was for a discrete product, those proposals were evaluated individually;
- (B) Price lines where multiple bidders submitted proposals for multiple identical products were evaluated by totaling the cost for the identical products proposed and comparing the total cost for those identical products. For example, if two bidders proposed both rock salt and treated rock salt, the cost for both products was added together, and the bidder with the lowest total cost was awarded the primary contract and the bidder with the second lowest total cost for that line item was awarded the alternate contract.

This was done because either product could be offered in the location under the operation of the contract.

On September 22, 2015, the Proposal Review Unit opened proposals received by the submission deadline. Six proposals were received and evaluated by the Bureau. On October 29, 2015, the Bureau issued the NOI. With respect to price lines 52, 55, 142 and 145, the NOI indicated that the primary contract would be awarded to Morton Salt, Inc. (Morton) as the lowest responsive bidder and an alternate contract would be awarded to Oceanport, as the second lowest responsive bidder.

Both Oceanport and Morton submitted proposals for rock salt and treated rock salt for price lines 52, 55, 142 and 145 as indicated in the table below.

Price Line	Location	Bidder	Unit Price Rock Salt	Unit Price Treated Rock Salt	Total
52	Cumberland County Facility	Morton	72.79	89.92	162.71
52	Cumberland County Facility	Oceanport	72.10	91.25	163.35
55	Edgewater Park	Morton	71.05	89.05	160.10
55	Edgewater Park	Oceanport	70.40	90.65	161.05
142	Cumberland County	Morton	87.79	94.29	182.08
142	Cumberland County	Oceanport	85.00	105.00	190.00
145	Gloucester County	Morton	85.62	103.62	189.24
145	Gloucester County	Oceanport	85.00	105.00	190.00

As noted above, in evaluating proposals where multiple bidders submitted pricing on the same price line, the Bureau totaled the cost for the identical products proposed by the bidders for that price line. For this RFP, both Oceanport and Morton proposed rock salt and treated rock salt for price lines 52, 55, 142 and 145. Accordingly, in evaluating the proposal pricing for these price lines, the Bureau added the cost for rock salt and treated rock salt together resulting in total price for the price line. While Oceanport is correct that its proposed price for rock salt only was lower than the price proposed by Morton for price lines 52, 55, 142 and 145, the total price proposed by Morton for both rock salt and treated rock salt was lower than that proposed by Oceanport. Based upon this evaluation, the Bureau issued its NOI indicating that the primary contract would be awarded to Morton, as the bidder proposing the lowest total price on these four price lines, and the alternate contract would be awarded to Oceanport, as the bidder proposing the second lowest total price for the four price lines.

Based upon the foregoing, the Procurement Bureau's NOI is sustained. This is my final agency decision with respect to the protest submitted by Oceanport. Thank you for your company's interest in doing business with the State of New Jersey and for registering your company with **NJ START** at www.njstart.gov, the State of New Jersey's new eProcurement system.

Sincerely,



Jignasa Desai-McCleary
Director

JD-M: RUD

c: M. Groninger
K. Adams
P. Michaels