



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR  
33 WEST STATE STREET  
P. O. BOX 039  
TRENTON, NEW JERSEY 08625-0039  
<https://www.njstart.gov>  
Telephone (609) 292-4886 / Facsimile (609) 984-2575

PHILIP D. MURPHY  
*Governor*

ELIZABETH MAHER MUOIO  
*State Treasurer*

SHEILA Y. OLIVER  
*Lt. Governor*

AMY F. DAVIS  
*Acting Director*

February 9, 2023

Via Electronic Mail [mmurphy@teknogrid.com](mailto:mmurphy@teknogrid.com) only

Margaret Murphy  
Business Development Manager  
Teknogrid LLC  
One Gateway Center  
Suite 2600  
Newark, NJ 07102

Re: I/M/O Bid Solicitation #23DPP00812 – Teknogrid LLC  
Protest of Proposal Rejection  
T2989 Communication Wiring Services

Dear Ms. Murphy:

This final agency decision is in response to the e-mail correspondence submitted by Teknogrid LLC. (Teknogrid), and received by the Division of Purchase and Property's (Division) Hearing Unit on January 12, 2023. In this correspondence, deemed a Protest by the Division pursuant to N.J.A.C. 17:12-3.1, Teknogrid protests the rejection of its Quote by the Division's Procurement Bureau (Bureau), as a late submission. Teknogrid alleges that it was unable to complete the process of uploading and submitting its Quote in a timely manner because of technical difficulties with NJSTART and requests that the Division accept its uploaded but not submitted material in the evaluation of this procurement.

By way of background, on September 7, 2022, the Division's Procurement Bureau (Bureau) issued the Bid Solicitation on behalf of the New Jersey Office of Information Technology (OIT). The purpose of the Bid Solicitation was to solicit "Quotes for the purchase of communications wiring services...for installation and maintenance of the communications wiring infrastructure within State or local government facilities, including building and campus wiring from the demarcation point to the user outlets." Bid Solicitation §1.1 *Purpose and Intent*. It is the intent of the State to award Contracts to those responsible Bidders whose Quotes, conforming to the Bid Solicitation are most advantageous to the State of New Jersey, price and other factors considered.

On October 6, 2022 the Bureau issued Bid Amendment #1 which addressed certain Q&A items and revised the Quote Submission Due Date to December 14, 2022 (2:00 p.m. Eastern Time).

On December 2, 2022 the Bureau issued Bid Amendment #2 which again revised the Quote Submission Due Date to January 12, 2023 (2:00 p.m. Eastern Time).

In consideration of Teknogrid’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 an informed final agency decision on the merits of the protest.

The Division’s administrative regulations that govern the advertised procurement process establish certain requirements that must be met in order for a proposal to be accepted. The Division’s governing regulations provide in relevant part “In order to be eligible for consideration for award of contract, the bidder's proposal shall...be submitted on or before the due date and time and at the place specified in the RFP.” N.J.A.C. 17:12-2.2(a). If the requirements of N.J.A.C. 17:12-2.2 are not met, a Quote must be rejected. These regulations are strictly enforced to maintain a level playing field for all Bidders and to ensure the integrity of the State’s bidding process.

In addition, the Bid Solicitation expressly advises bidders of the requirements for proper submission:

### **3.1 QUOTE SUBMISSION**

In order to be considered for award, the Quote must be received by the Division’s Proposal Review Unit, Quote electronically through [NJSTART](#), by the required date and time.

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](#). Quotes not received prior to the Quote opening deadline shall be rejected.

[Emphasis added.]

The Bid Solicitation also advises Bidders to consult with the Division’s Quick Reference Guides and supporting material in preparing Quotes for submission:

### **1. INTRODUCTION AND SUMMARY OF THE BID SOLICITATION**

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. Bidders should utilize the QRGs before attempting to submit a Quote through [NJSTART](#). **It is the Bidder’s**

**responsibility to ensure that the Quote and attachments have been properly submitted.** Inquiries concerning the use of *NJSTART* may be directed to [njstart@treas.nj.gov](mailto:njstart@treas.nj.gov). The Division will not respond to substantive questions related to the Bid Solicitation or any other Contract via this email address.

[Emphasis added.]

Not only does this section encourage Bidders to review the Quick Reference Guides provided by the Division, but it includes a hyperlink to the NJSTART portal containing all of the Quick Reference Guides and videos.

In addition the Bid Solicitation, the Division also posted to the NJSTART web-portal a Bid Solicitation Checklist to guide the Vendors in the submission process. The Checklist states:

THIS CHECKLIST WAS CREATED AS A GUIDE TO ASSIST BIDDERS AND MAY NOT IDENTIFY ALL OF THE DOCUMENTS, FORMS OR OTHER INFORMATION REQUIRED FOR SUBMITTING A COMPLETE AND RESPONSIVE QUOTE. IT IS THE BIDDER'S RESPONSIBILITY TO ENSURE THAT ALL REQUIREMENTS OF THE BID SOLICITATION HAVE BEEN MET.

In addressing the language in the checklist relating to a Protest, the Courts have stated:

These statements on the checklist, taken together with the mandatory language in other parts of the RFP, provided notice it was the bidder's responsibility to ensure all the required forms were submitted.....

In re Bid Solicitation #18DPP00205, No. A-0515-18T3, 2019 N.J. Super. Unpub. LEXIS 1468 (Super. Ct. App. Div. June 26, 2019).

In reviewing the NJSTART's records with respect to Teknogrid's Quote, it is clear that the Vendor was utilizing the NJSTART portal to upload information on the Quote Opening Date (01/12/2023):

**Files**

| Name                     | Description                | Confidential                        | Order | Attached By     | Attached Date |
|--------------------------|----------------------------|-------------------------------------|-------|-----------------|---------------|
| <b>Forms Packet</b>      | Packet with Required Forms | <input checked="" type="checkbox"/> | 0     | Margaret Murphy | 01/12/2023    |
| <b>Bidder Data Sheet</b> | Comparable Projects        | <input type="checkbox"/>            | 0     | Margaret Murphy | 01/12/2023    |
| <b>Technical Quote</b>   | Technical Quote            | <input type="checkbox"/>            | 0     | Margaret Murphy | 01/12/2023    |
| <b>Price Sheet</b>       | Price Sheet                | <input type="checkbox"/>            | 0     | Margaret Murphy | 01/12/2023    |
| <b>Price Sheet</b>       | Price Sheet                | <input checked="" type="checkbox"/> | 0     | Margaret Murphy | 01/12/2023    |

However, at the close of the 2:00 p.m. submission deadline Teknogrid had not submitted its Quote pursuant to the instructions and requirements. It is also noted that at the close of the submission deadline for any given Bid Solicitation, NJSTART automatically removes the submission button / functionality. Uploading documents to the NJSTART portal is one step in the process of submitting a Quote to the State of New Jersey but until and unless the Vendor completes the submission process the PRU is not able to view or consider the uploaded information.

Although the Vendor indicates that it was experiencing technical difficulties submitting information via NJSTART, it is noted that seven (7) other Vendors successfully uploaded Quotes on or before the Quote submission deadline. The Division cannot waive or relax the submission requirements for one Vendor at the expense of the other compliant Vendors. “Requiring adherence to material specifications maintains a level playing field for all bidders competing for a public contract.” Barrick v. State, 218 N.J. 247, 259 (2014).

In light of the findings set forth above, I must deny Teknogrid’s request to be considered for eligibility to participate in the competition for this contract. This is my final agency decision. 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.

Thank you for your company’s continuing interest in doing business with the State of New Jersey. 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.

This is the Division's final agency decision. Pursuant to N.J.A.C. 17:12-3.1, this determination is appealable to the Appellate Division of the Superior Court in accordance with the New Jersey Court Rules (R. 2:4-1) which provide a party 45 days to appeal this final agency decision.

Sincerely,

*Amy F. Davis*

Amy F. Davis  
Acting Director

AFD: DPK

c: M. Dunn  
S. Brandbergh