



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR

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October 4, 2024

Via Electronic Mail Only to benjamin.wagenmaker@groupelacasse.com

Benjamin Wagenmaker
Government Contract Administrator, Pricing & Sales Support
Groupe LaCasse
99 Saint-Pierre
Saint-Pie, QC J0H 1W0
Canada

Re: I/M/O RFQ #15964088 Groupe LaCasse
Protest of Notice of Proposal Rejection
G2004 Furniture: Office, Dormitory, Residential, Library, Classroom, Lounge and System -
Statewide

Dear Mr. Wagenmaker:

This final agency decision is in response to the protest emails dated September 9, 2024 and two emails dated September 10, 2024 (herein collectively referred to as "Protest"), submitted by Groupe LaCasse ("Groupe"). That Protest was received by the Division of Purchase and Property's ("Division") Hearing Unit on September 9, 2024 and September 10, 2024. In that correspondence, Groupe protests the Notice of Intent to Award ("NOI") issued on August 28, 2024, by the Division's Procurement Bureau ("Bureau") for Request For Quotation #15964088 – G2004 Furniture: Office, Dormitory, Residential, Library, Classroom, Lounge and System - Statewide ("RFQ"). The record of this procurement reveals that the Quote submitted by Groupe was deemed non-responsive on the grounds that "Groupe LaCasse did not meet the requirements of RFQ Section 3.3 (Public Works Contractor Registration)", as set forth on page 74 in the Recommendation Report dated July 24, 2024 ("Recommendation Report"). In their Protest, Groupe argues that they "sent it our PW certificate with our bid, and re-sent it during the bid evaluation process . . ." Protest, September 9, 2024 email. In their Protest, Groupe further posits that there could be some sort of technological problems with the Department of Labor database or even human error which would account for their Public Works Certificate ("PWC") not being in the Department of Labor database. Finally, Groupe states, "All we know is that we received a valid PW certificate, we had it, and we submitted it." Protest email, September 10, 2024 at 3:18pm.

By way of background, on November 16, 2022, the Procurement Bureau ("Bureau") issued the RFQ on behalf of the State of New Jersey. The purpose of the RFQ was to solicit "Quotes for various types of Office, Dormitory, Residential, Library, Classroom and Lounge Furniture, Non-Modular and Files, System and Open Plan/Landscape Furniture, related supplies and installation services necessary to meet the needs of various Using Agencies." RFQ Sec. 1.1, *Purpose and Intent*. It is the intent of the State to award

a Contract to that responsible Bidder(s) whose Quote, conforming to this RFQ is most advantageous to the State of New Jersey (State), price and other factors considered. The State may award any or all price lines.

In accordance with RFQ Section 2.1, *Electronic Question and Answer Period*, an electronic portal enabling the Bureau to receive questions electronically was available to all potential Bidders to submit questions by December 7, 2022. On June 19, 2023, Amendment 9 was issued which answered 319 questions received during this electronic question and answer period. A second electronic question and answer period allowed bidders to submit additional questions by June 28, 2023. The sixty (60) questions submitted during this second question and answer period were answered via Amendment number 11.

On November 28, 2023, the Bureau opened forty two (42) Quotes, listed in the chart below, which were received by the submission deadline of 2:00 pm eastern time on November 28, 2023.

9 to 5 Seating LLC (“9 to 5”)	John Savoy & Son, Inc., d/b/a Savoy Contract Furniture (“Savoy”)
Affordable Interior Systems Inc. (“Affordable Interior”)	Kimball International Brands Inc. (“Kimball”)
Agati Inc. (“Agati”)	Krueger International Inc. (“Krueger”)
Allseating Corporation (“Allseating”)	Krug Inc. (“Krug”)
Allsteel LLC (“Allsteel”)	Metalworks, Inc. d/b/a Great Openings (“Metalworks”)
Arconas Corporation (“Arconas”)	MillerKnoll Inc. (“MillerKnoll”)
Blockhouse Company Inc. (“Blockhouse”)	Nevers Industries Inc. (“Nevers”)
Burhani Enterprises Inc. (“Burhani”)	New England Woodcraft Inc. (“New England”)
Daco Limited Partnership d/b/a Dauphin (“Dauphin”)	Office Master Inc. (OM Seating) (“Office Master”)
Dar-Ran Furniture Industries Inc. (“Dar-Ran”)	OFS Brands Inc. (“OSF”)
Datum Filing Systems Inc. d/b/a Datum Storage Solutions (“Datum”)	PS Furniture Inc. (“PS”)
Ditto Sales Inc. d/b/a Versteel (“Versteel”)	Raynor Marketing d/b/a Eurotech (“Eurotech”)
Exemplis LLC (“Exemplis”)	Safco Products Co. (“Safco”)
Fellows Inc. (“Fellows”)	Special T (“Special T”)
Friant & Associates LLC (“Friant”)	Stance Healthcare Inc. (“Stance”)
Global Industries Inc. (“Global”)	Steelcase Inc. (“Steelcase”)
Groupe LaCasse LLC (“Groupe LaCasse”)	Swiftspace Inc. (“Swiftspace”)
Haworth Inc. (“Haworth”)	The Hon Company (“Hon”)
High Point Furniture Industries Inc. (“High Point”)	Three H Furniture Systems Limited (“Three H”)
Humanscale Corporation (“Humanscale”)	Trinity Furniture Inc. (“Trinity”)
Jasper Seating Company, Inc. d/b/a JSI/Jasper Group (“Jasper”)	Via Inc. (“Via”)

As part of the responsiveness review, the Bureau determined that the Quotes from the following bidders were either unresponsive in part or in their entirety as show in the chart below.

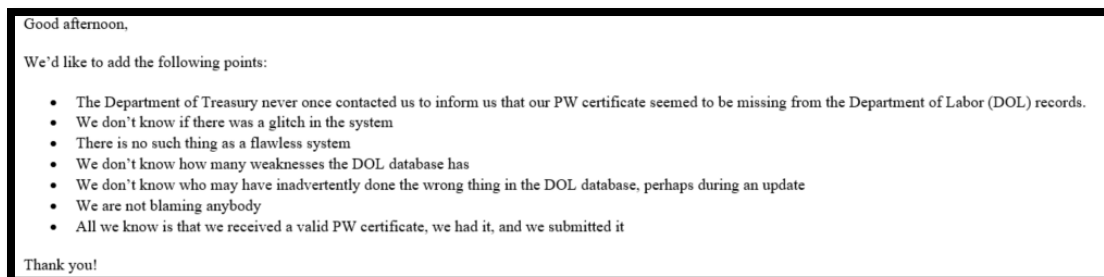
BIDDER	FULLY OR PARTIALLY NON-RESPONSIVE	REASON
Agati	Fully non-responsive	Bidder did not have a valid Public Works Contractor Registration certificate on file at the time of Quote Submission Due date (11/28/23) as required by Section 3.3 of the RFQ.

Blockhouse	Fully non-responsive	Bidder did not have a valid Public Works Contractor Registration certificate on file at the time of Quote Submission Due date (11/28/23) as required by Section 3.3 of the RFQ.
Dar-Ran	Fully non-responsive	Bidder did not have a valid Public Works Contractor Registration certificate on file at the time of Quote Submission Due date (11/28/23) as required by Section 3.3 of the RFQ.
Friant	Fully non-responsive	Bidder did not have a valid Public Works Contractor Registration certificate on file at the time of Quote Submission Due date (11/28/23) as required by Section 3.3 of the RFQ.
Groupe LaCasse	Fully non-responsive	Bidder did not have a valid Public Works Contractor Registration certificate on file at the time of Quote Submission Due date (11/28/23) as required by Section 3.3 of the RFQ.
Haworth	Fully non-responsive	Bidder did not have a valid Public Works Contractor Registration certificate on file at the time of Quote Submission Due date (11/28/23) as required by Section 3.3 of the RFQ. Additionally, Haworth did not bid on Price Lines 9 or 10 as required pursuant to RFQ Sections 1.1 and 8.6.2. Bidding on Price Lines 9 and 10 was a requirement of the RFQ and failure to bid on Price Lines 9 and 10 also renders Haworth's Quote non-responsive.
Nevers	Fully non-responsive	Bidder did not have a valid Public Works Contractor Registration certificate on file at the time of Quote Submission Due date (11/28/23) as required by Section 3.3 of the RFQ.
PS Furniture	Fully non-responsive	Bidder did not have a valid Public Works Contractor Registration certificate on file at the time of Quote Submission Due date (11/28/23) as required by Section 3.3 of the RFQ.
Special T	Fully non-responsive	Bidder did not have a valid Public Works Contractor Registration certificate on file at the time of Quote Submission Due date (11/28/23) as required by Section 3.3 of the RFQ.
Swiftspace	Fully non-responsive	Bidder did not have a valid Public Works Contractor Registration certificate on file at the

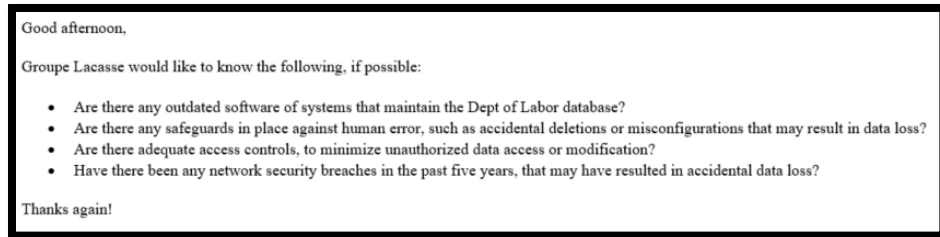
		time of Quote Submission Due date (11/28/23) as required by Section 3.3 of the RFQ.
Three H	Fully non-responsive	Bidder did not have a valid Public Works Contractor Registration certificate on file at the time of Quote Submission Due date (11/28/23) as required by Section 3.3 of the RFQ.
Trinity	Fully non-responsive	Bidder did not have a valid Public Works Contractor Registration certificate on file at the time of Quote Submission Due date (11/28/23) as required by Section 3.3 of the RFQ.
Burhani	Fully non-responsive	Bidder failed to provide Ownership Disclosure information as required pursuant to Section 3.6.2 of the RFQ. Bidder failed to provide a signed Specification Conformance Form with its Quote as required pursuant to Section 3.6.14 of the RFQ. *Finally, Bidder left blank the field of "Percentage (%) of Post-Consumer Material Content" which was required pursuant to Section 3.8 of the RFQ which rendered its Quote non-responsive as to Price Line 4 as well.
Datum	Partially non-responsive	Datum did not hold a valid GSA Contract for SIN Number 337127 (Price Line 3) as required pursuant to RFQ Sections 1.1 and 8.6.2 so Datum is non-responsive as to Price Line 3. Additionally, Datum did not hold a valid GSA Contract for Ancillary Supplies/Services (Price Line 12) as required pursuant to RFQ Sections 1.1 and 8.6.2 so Datum is non-responsive as to Price Line 12.
Versteel	Fully non-responsive	Versteel did not bid on Price Line 10 as required pursuant to RFQ Sections 1.1 and 8.6.2. Bidding on Price Line 10 was a requirement of the RFQ and failure to bid on Price Line 10 renders Versteel's Quote non-responsive.
Fellowes	Partially non-responsive.	Fellowes did not hold a valid GSA Contract for SIN Numbers 337127P (Price Line 2) and for 337127 (Price Line 3) as required pursuant to RFQ Sections 1.1 and 8.6.2 so Fellowes is non-responsive as to Price Lines 2 and 3.
Humanscale	Partially non-responsive	Humanscale did not hold a valid GSA Contract for Ancillary Supplies/Services (Price Line 12) as required pursuant to RFQ Sections 1.1 and

		8.6.2 so Humanscale is non-responsive as to Price Line 12.
Krug	Partially non-responsive	Krug did not hold a valid GSA Contract for SIN Numbers 33712 (Price Line 1), 337121P (Price Line 2), 337127 (Price Line 3), 33721T (Price Line 6), 339113P (Price Line 7) and 33712LFSB (Price Line 8).
New England	Partially non-responsive	New England did not hold a valid GSA Contract for Ancillary Supplies/Services (Price Line 12) as required pursuant to RFQ Sections 1.1 and 8.6.2 so New England is non-responsive as to Price Line 12.
OFS	Partially non-responsive	OFS did not hold a valid GSA Contract for Ancillary Supplies/Services (Price Line 12) as required pursuant to RFQ Sections 1.1 and 8.6.2 so OFS is non-responsive as to Price Line 12.
Eurotech	Fully non-responsive	Eurotech left the field “Percentage (%) of Post-Consumer Material Content” blank on Price Line 4, which was a required field pursuant to RFQ Section 3.8, thus rendering Price Line 4 non-responsive. Eurotech could not be responsive for Price Lines 9 and/or 10 because those Price Lines required a responsive Quote for at least one Price Line in Price Lines 1-8. Additionally, Price Line 12, Ancillary Supplies/Services is only applicable if a Bidder has a responsive Quote for Price Lines 1-8.

In their Protest, Groupe claims that they had a valid PWC prior to the Quote Submission due date of November 28, 2023, and that they submitted it with their bid. Additionally, Groupe raises further points regarding technology issues in their Protest, September 10, 2024 emails:



[Protest email, September 10, 2024 at 3:18pm.]



[Protest email, September 10, 2024 at 3:32pm.]

Although Groupe has not requested an in-person presentation as permitted by N.J.A.C. 17:12-3.3(e), it should be noted that “[t]he Director has sole discretion to determine if an in-person presentation by the protester is necessary to reach an informed decision on the matter(s) of the protest. In-person presentations are fact-finding for the benefit of the Director.” Further, “[i]n cases where no in-person presentation is held, such review of the written record shall, in and of itself, constitute an informal hearing.” N.J.A.C. 17:12-3.3(d). I have reviewed the record of this procurement, including the RFQ, the Quotes received, the relevant statutes, regulations, case law, and the protest submitted by Groupe. The issues raised in the protest were sufficiently clear such that a review of the record of this procurement 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 submitted by Groupe on the written record, as such an in-person hearing is not warranted. I set forth herein the Division’s Final Agency Decision.

DISCUSSION

The New Jersey Courts have long recognized that the purpose of the public bidding process is to “secure for the public the benefits of unfettered competition.” Meadowbrook Carting Co. v. Borough of Island Heights, 138 N.J. 307, 313 (1994). To that end, the “public bidding statutes exist for the benefit of the taxpayers, not bidders, and should be construed with sole reference to the public good.” Borough of Princeton v. Board of Chosen Freeholders, 169 N.J. 135, 159-60 (1997). The objective of New Jersey’s statutory procurement scheme is “to guard against favoritism, improvidence, extravagance and corruption; their aim is to secure for the public the benefits of unfettered competition.” Barrick v. State of New Jersey, 218 N.J. 247, 258 (2014) (citing Keyes Martin & Co. v. Dir. of Div. of Purchase and Prop., 99 N.J. 244, 256 (1985)).

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** 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.]

If the requirements of N.J.A.C. 17:12-2.2 are not met, a Quote must be rejected. This regulation mandates stringent enforcement to maintain the equal footing of all Vendors {Bidders} and to ensure the integrity of the State's bidding process.

The subject procurement was comprised of the RFQ, other documents and mandatory forms which were specifically addressed in RFQ Section 3, *Quote Submission Requirements*.

RFQ Section 3.3, *Public Works Contractor Registration* states:

3.3 PUBLIC WORKS CONTRACTOR REGISTRATION

At the time of the Quote due date, the Bidder and Subcontractors performing public work as defined in N.J.S.A. 34:11-56.26 must be registered in accordance with the Public Works Contractor Registration Act (PWCRA), N.J.S.A. 34:11-56.48 et seq. This registration is required for all trade categories required to perform work as listed herein.

Questions regarding Public Works Contractor Registration should be addressed to:

Contractor Registration
New Jersey Department of Labor and Workforce Development, Division of Wage and Hour Compliance
PO Box 369, Trenton, NJ 08625-0389
Tel: 609-292-9464
Fax: 609-633-8591

For additional information, please reference the following web site:
https://www.nj.gov/labor/wagehour/regperm/pw_cont_reg.html.

NOTE: The Bidder should provide proof of Public Works registration with their Quote submission.

This language was developed to be consistent with the two mandatory requirements regarding bidders and subcontractors established in N.J.S.A. 34:11-56.51, which reads:

No contractor shall bid on any contract for public work as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26), or for which payment of the prevailing wage is required by any other provision of law, unless the contractor is registered pursuant to this act. **No contractor shall list a subcontractor in a bid proposal for the contract unless the subcontractor is registered pursuant to P.L.1999, c.238 (C.34:11-56.48 et seq.) at the time the bid is made.** No contractor or subcontractor, including a subcontractor not listed in the bid proposal, shall engage in the performance of any public work subject to the contract, unless the contractor or subcontractor is registered pursuant to that act.

[N.J.S.A. 34:11-56.51 (emphasis added).]

The term “must” denotes a mandatory requirement as further set forth in the RFQ’s glossary:

Must – Denotes that which is a mandatory requirement.

[RFQ Section 9, *GLOSSARY*]

The term “shall” also denotes that which is a mandatory requirement as further set forth in the RFQ’s glossary:

Shall – Denotes that which is a mandatory requirement.

[RFQ Section 9, *GLOSSARY*]

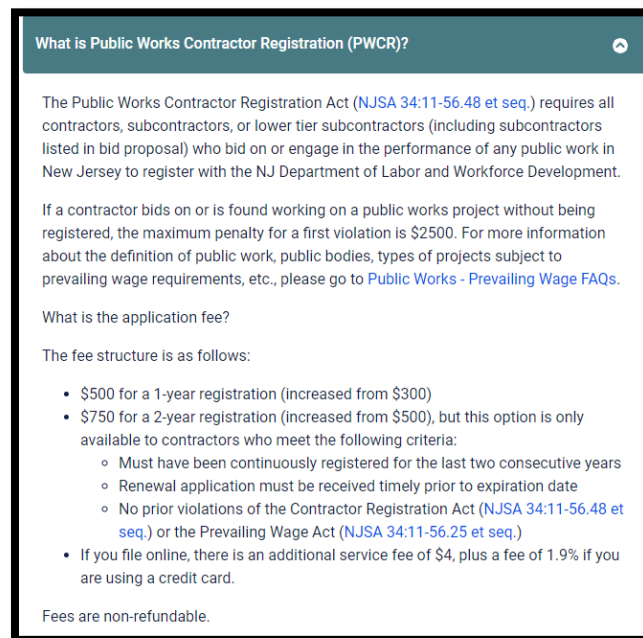
It is clear that being registered in accordance with the Public Works Contractor Registration Act prior to Quote Opening was a mandatory requirement to be found responsive for this RFQ. The Bureau highlighted the need for the PWC in numerous instances. Bid Amendment #9, states in the answer to question #9 that “the manufacturer as Bidder is required to be registered in accordance with the Public Works Contractor Registration Act . . .” RFQ, Amendment #9, page 3 Additionally, in Bid Amendment #11, the answer to question #52 states that the State will not allow the contractor to apply for public works registration after award/before the contract becomes active and reiterates the language found in RFQ Section 3.3 that “At the time of the Quote due date, the bidder and Subcontractors . . . must be registered in accordance with the Public Works Contractor Registration Act . . . “ RFQ, Amendment 9, page 18.

After Quote opening, the Bureau conducted a search of the New Jersey Public Works Registered Contractors – Crafts list, available on the State of New Jersey’s official website for the Department of Labor and Workforce Development, for Groupe’s name to confirm registration. This search did not show a PWC registration for Groupe. Recommendation Report, page 79. On June 5, 2024, a Request for Information letter (“RFI”) was sent to Groupe to request evidence of its Public Works certificate in effect prior to or on the date of Quote opening. In its response to the RFI, Groupe “sent the same Public Works certificate that that was part of its Quote submission.” Recommendation Report, page 79. The Bureau notes that Groupe “provided a Public Works certificate as an attachment with its Quote”. Recommendation Report, page 80. The Bureau reached out to the New Jersey Department of Labor to inquire if Groupe had a valid PWC prior to or on the date of Quote opening (November 28, 2023). A representative from the New Jersey Department of Labor stated that with respect to Groupe “Our records indicate that they were last registered from 11/17/2018 to 11/16/2020. Nothing since”. Recommendation Report, page 81.

The PWC that Groupe provided with their initial Quote and again via email on June 13, 2024 in response to the RFI letter, shown below, had a registration date of 11/17/2021 and an expiration date of 11/16/2024.

Certificate Number 654035		Registration Date: 11/17/2021 Expiration Date: 11/16/2024
State of New Jersey		
Department of Labor and Workforce Development Division of Wage and Hour Compliance		
Public Works Contractor Registration Act		
Pursuant to N.J.S.A. 34:11-56.48, et seq. of the Public Works Contractor Registration Act, this certificate of registration is issued for purposes of bidding on any contract for public work or for engaging in the performance of any public work to:		
Groupe Lacasse LLC		
Responsible Representative(s): Ed Ingram, Member Karen Krosnomowitz, Managing Member		Responsible Representative(s): Ben Wagemaker, Member
 Aaron R. Fichtner, Ph.D., Commissioner Department of Labor and Workforce Development	NON TRANSFERABLE	This certificate may not be transferred or assigned and may be revoked for cause by the Commissioner of Labor and Workforce Development.

With respect to the registration process for Public Works Contractor Registration, a review of the official website of the New Jersey Department of Labor (“DOL”) “Public Works (Contractor Registration) FAQs” reveals that registration is available for a one (1) year or two (2) year period. There is no option to for a three (3) year registration which is the length of time for the certificate that Groupe provided the Bureau.



[\[Wage & Hour and Contract Compliance | Public Works \(Contractor Registration\) FAQs \(nj.gov\).\]](#)

The Procurement Bureau confirmed with DOL via email dated September 27, 2024, that DOL did not issue three year PWC's in 2021.

In their emails of September 10, 2024, Groupe raises the possibility that there maybe a “glitch in the system” as there are no “flawless sytem[s]”. Additionally Groupe claims that there could be “weaknesses” in the DOL records and/or database, “outdated software systems”, potentially human error and finally asks whether there have been “network security breaches in the past five years, that may have resulted in accidental data loss”. A search of the State of New Jersey Cybersecurity & Communications official website does not reveal any network security breaches of the DOL as Groupe suggests.

During the initial responsive review of a Quote, the Division is charged with ensuring that the Contract is awarded to that responsible Bidder, whose Quote, conforming to the RFQ, is most advantageous to the State, price and other factors considered. RFQ Section 1.1 *Purpose and Intent*. A responsive Quote is a Quote that is deemed by the Division to have adequately addressed all material provisions of a RFQ's terms and conditions, specifications, and other requirements. N.J.A.C. 17:12-1.3. A Quote that is not compliant or responsive to the material requirements of the RFQ shall not be eligible for further consideration for award of a Contract and the bidder offering said Quote shall receive notice of the rejection of its Quote. N.J.A.C. 17:12-2.7(c). Here, DOL does not have any record of Groupe having a valid PWC registration at the time of Quote opening.

When evaluating a Quote, if a deviation is found, the question is whether the deviation is material. It is firmly established in New Jersey that material deviations may not be waived. Twp. of Hillside v.

Sternin, 25 N.J. 317, 324 (1957). In Meadowbrook Carting Co., 138 N.J. 307, 315 (1994), the New Jersey Supreme Court adopted the test set forth by the court in Twp. of River Vale v. Longo Constr. Co. for determining materiality. 127 N.J. Super. 207 (Law Div. 1974). “In River Vale, the court declared that after identifying the existence of a deviation, the issue is whether a specific non-compliance constitutes a substantial [material] and hence non-waivable irregularity.” In re Protest of Award of On-Line Games Prod. and Operation Servs. Contract, 279 N.J. Super. 566, 594 (App. Div. 1995), citing River Vale, 127 N.J. Super. at 216. The River Vale court set forth a two-part test for determining whether a deviation is material:

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. Super. 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.” On-Line Games, *supra*, 279 N.J. Super. at 595 (citing River Vale, *supra*, 127 N.J. Super. at 222).

As installation is a facet of this RFQ, not having a PWC at time of Quote Opening is a non-waivable deviation under River Vale. Allowing Groupe’s Quote to move forward without the required PWC would place it “in a position of advantage over other bidders” in violation of the law set forth under River Vale.

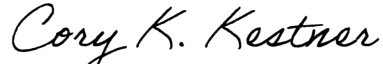
New Jersey procurement law requires that “specifications and invitations for bids shall permit such full and free competition as is consistent with the procurement of supplies and services necessary to meet the requirements of the using agency. . . .” N.J.S.A. 52:34-12. This principle is based on the long-recognized “policy behind the competitive bidding statutes, i.e., assurance against favoritism, improvidence, extravagance and corruption in the bidding process.” Palamar Constr., Inc. v. Pennsauken, 196 N.J. Super. 241, 251 (App. Div. 1983) (citing Terminal Construction Co. v. Atlantic City Sewerage Auth., 67 N.J. 403, 410 (1975)). “These policies, in turn, are meant to ensure that all bidders are equally situated in their competition for the public contract.” Palamar, *supra*, 196 N.J. Super. at 251 (citing Hillside Twp. v. Sternin, 25 N.J. 317, 322 (1957)). “The conditions and specifications must apply equally to all prospective bidders. Otherwise, there is no common standard of competition.” *Id.* Allowing Groupe’s Quote to proceed to award in light of their failure to register for a PWC would place Groupe in a superior position among bidders under this RFQ.

Based upon the findings set forth above, I find no reason to disturb the determination that the Quote submitted by Groupe was non-responsive to the requirements of the RFQ. Accordingly, I sustain the August 28, 2024, Notice of Intent to Award. This is my final agency decision.

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,

A handwritten signature in black ink that reads "Cory K. Kestner". The signature is written in a cursive, flowing style.

Cory K. Kestner, Esq.
Acting Chief Hearing Officer

CKK: CMD

c. K. Thomas
C. Murphy