



State of New Jersey

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

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August 21, 2025

Via Electronic Mail Only to david@boycerec.com

David Rainey
Great Lakes Recreation Co. LLC / dba Boyce Recreation
39 Veterans Dr.
Suite 310
Holland, MI 49423

Re: I/M/O Bid Solicitation #23DPP00902 Boyce Recreation
Protest of Notice of Proposal Rejection
T0103 Park and Playground Equipment

Dear Mr. Rainey:

This final agency decision is in response to the Protest dated June 30, 2025, submitted by Great Lakes Recreation Co. LLC / dba Boyce Recreation ("Boyce Recreation"). That letter was received by the Division of Purchase and Property's ("Division") Hearing Unit on June 30, 2025. In that correspondence, Boyce Recreation protests the Notice of Intent to Award issued on June 16, 2025, by the Division's Procurement Bureau ("Bureau") for Bid Solicitation #23DPP00902 – T0103 Park and Playground Equipment - Statewide ("Bid Solicitation"). In the Protest submission, Boyce Recreation indicates there was a clerical error on their State-Supplied Price Sheet in which they forgot to check /complete the Regions Served columns for price lines 37, 38 & 39 for the Little Tikes Commercial brand.¹

By way of background, on September 27, 2023, the Procurement Bureau issued the Bid Solicitation on behalf of Statewide Using Agencies and Cooperative Purchasing Participants. The purpose of the Bid Solicitation was to solicit "Quotes for various types of Park and Playground Equipment." Bid Solicitation Sec. 1.1, *Purpose and Intent*. It is the intent of the State to award a Contract to that responsible Bidder whose Quote, conforming to this Bid Solicitation is most advantageous to the State, price and other factors considered. The State may award any or all price lines.

On November 15, 2023, the Division's Proposal Review Unit (PRU) opened forty-one (41) Quotes which were received by the submission deadline of 2:00 pm eastern time. The PRU conducted an initial review of the Quotes received for compliance with mandatory Quote submission requirements, five (5)

¹ Boyce Recreation also failed to complete the required field titled "Region Served" on the State-Supplied Price Sheet for Price Lines 10 (for the Kay Park brand), 21 (for the Kay Park brand), 35 (for the Kay Park brand). Boyce only submitted a Protest as to Price Lines 37, 38 & 39 for the Little Tikes Commercial brand.

Quotes were rejected as non-responsive and the remaining Quotes were released to the Procurement Bureau for review.

Although Boyce Recreation did not request 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 Bid Solicitation, the Quotes received, the Bureau’s Recommendation Report, the relevant statutes, regulations, case law, and the protest submitted by Boyce Recreation. 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 Cedar Hill on the written record, as such an in-person hearing is not warranted. I set forth herein the Division’s Final Agency Decision.

The Bid Solicitation makes clear that certain requirements are mandatory and not subject to discretion. Specifically the Bid Solicitation Section 9.0, *Glossary*, states:

Must – Denotes that which is a mandatory requirement.

Shall – Denotes that which is a mandatory requirement.

Bid Solicitation Section 3.36, *State Supplied Price Sheet Instructions*, states:

Step 5 – The Bidder **shall** enter an “X” in at least one (1) of the “Region Served” fields under the subheadings ‘North’, ‘Central’ and/or ‘South’, to indicate which region(s) the percentage discount or markup applies for the brand bid. If a Bidder is bidding for all three regions, North, Central and South, the Bidder should insert an “X” in the North, Central and South fields on the State-Supplied Price Sheet. **If the Bidder does not insert an “X” in any of the North, Central or South fields, the Quote may be deemed non-responsive for that price line item.**

[Emphasis added.]

The State-Supplied Price Sheet submitted by Boyce Recreation clearly omitted the required information from the necessary columns:

35	Pet Waste Disposal Systems	-7%	Kay Park Recreation			
36	Planters	-7%	Kay Park Recreation	X	X	X
37	Playground Equipment (Ages 6-23 Months)	-7%	Little Tikes Commercial			
38	Playground Equipment (Ages 2-5 Years)	-7%	Little Tikes Commercial			
39	Playground Equipment (Ages 6-12 Years)	-7%	Little Tikes Commercial			
40	Playground Surfaces (All Types), Rubber Mulch, Engineered Wood Fiber and Containments System	-7%	Pro-Techs Surfacing	X	X	X
41	Scoreboards	-7%	JayPro Sports	X	X	X
42	Skate Park Equipment	No Bid				
43	Transit (Bus) Shelters	-7%	Americana Outdoors	X	X	X
44	Umbrellas	-7%	Wabash Valley	X	X	X
45	Wall Padding	-7%	JayPro Sports	X	X	X
46	Waste and Recycling Receptacles	-7%	Wabash Valley	X	X	X
47	Water Park Equipment	-7%	Water Play	X	X	X

The combination of the clear language in Section 3.36, "If the Bidder does not insert an "X" in any of the North, Central or South fields, the Quote may be deemed non-responsive", and the definitions in the Glossary, make it clear that the Region Served column(s) on the Price Sheet are a mandatory requirement of the Bid Solicitation. By failing to submit the required completed pricing, for price lines 37, 38 & 39, Boyce Recreation's Quote contained a non-waivable deviation rendering that portion of the Quote non-responsive. Twp. of River Vale v. Longo Constr. Co., 127 N.J. Super. 207, 222 (Law Div. 1974).

In light of the findings set forth above, I sustain the Bureau's conclusions that Boyce Recreation's Quote for price lines 37, 38 & 39 is non-responsive.

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,



Cory K. Kestner, Esq.
Acting Chief Hearing Officer

CKK:DPK

c. K. Thomas
C. Murphy
E. Flynn