



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

TAHESHA L. WAY
Lt. Governor

AMY F. DAVIS, ESQ.
Acting Director

July 9, 2025

Via Electronic Mail Only to fransuttontrucking@gmail.com

Frank Sutton
Frank Sutton Trucking LLC
522 Shark River Road
Wall, NJ 07727

Re: I/M/O Bid Solicitation #25DPP01134 Frank Sutton Trucking LLC
Protest of Notice of Intent to Award
T0777 – Snow Plowing and Spreading Services - NJDOT

Dear Mr. Sutton:

This final agency decision is in response to your letter delivered via electronic mail on behalf of Frank Sutton Trucking LLC (“Sutton”) received by the Division of Purchase and Property’s (“Division”) Hearing Unit on July 7, 2025 (“Protest”). In that letter, Sutton protests the Procurement Bureau’s (“Bureau”) June 27, 2025, Notice of Intent to Award letter (“NOI”) issued for Bid Solicitation #25DPP01134 – T0777 Snow Plowing and Spreading Services - NJDOT (“Bid Solicitation”). Sutton generally protests awards made to various other Bidders arguing that forms submitted by other bidders were incomplete, incorrectly filled out, or otherwise lacking, and therefore their Quotes should be rejected. Additionally, Sutton claims that various other Bidders incorrectly completed their State-Supplied Price Sheet – Other Equipment and those Quotes should also be rejected.

By way of background, on January 23, 2025, the Bureau issued the Bid Solicitation on behalf of New Jersey Department of Transportation (“NJDOT”). The purpose of the Bid Solicitation was to solicit Quotes for snow plowing and spreading services on all State interstates and highways under the jurisdiction of the NJDOT. Bid Solicitation Sec. 1.1, *Purpose and Intent*. Bid Solicitation Section 1.2, *Background*, cautioned Bidders that this Bid Solicitation addressed the State’s current requirements. Pursuant to Bid Solicitation Section 3.17, *State Supplied Price Sheet Instructions*, there were three (3) categories (and accompanying price sheets) that Bidders could submit bids for. The first category is for Snow Plowing and Hauling Services. The second category is for Other Equipment that the Bidder can provide to the NJDOT. The third category is for Spreading Services. Pursuant to Bid Solicitation Section 1.1 *Purpose and Intent*, for the first category (Price Lines 1-317, Snow Plowing and Hauling Services), “the Division intends to award one (1) responsive Bidder per Price Line for Snow Plowing and Hauling Services, Class A Snow Plowing Truck – With Bidder Provided Snow Plow (1st preference), or Class A Snow Plowing Truck – With NJDOT Provided Snow Plow (2nd Preference).” (Emphasis in the original). With respect to the second category (Price Lines 318-326, Snow Plowing and Hauling Services; Other Equipment – Loaders and Graders), “the Division Intends to award all Price Lines to all responsive Bidders for Snow Plowing and Hauling Services; Other Equipment – Loaders and Graders.” *Id.* Finally, for the third category (Price Lines

327-392, Spreading Services), “the Division intends to award one (1) responsive Bidder per Price Line.”
Id.

In accordance with Bid Solicitation Section 2.5, *Optional Pre-Quote Conference*, an optional Pre-Quote Conference was held on February 6, 2025, providing all potential Bidders with an overview of the Bid Solicitation and Quote submission procedures and requirements. Representatives from eight (8) potential bidding entities attended (Mathis Construction, Jersey Construction, Inc., Mark Veniero Trucking, Seashore Asphalt Corp., IEW Construction Group, Inc., J&K Toro Trucking, Gomez Brothers Trucking, and Encalada Trucking).

In accordance with Bid Solicitation Section 2.1, *Electronic Question and Answer Period*, an electronic portal enabling the Bureau to receive questions electronically was available to all potential Bidders until 2:00 P.M. Eastern Time on February 13, 2025. One (1) Bid Amendment was issued for this Bid Solicitation, which provided revisions to the Bid Solicitation and responses to questions received from potential Bidders.

On April 4, 2025, the Division’s Proposal Review Unit (“PRU”) opened one hundred seventy-six (176) Quotes. The Quotes submitted by BLM Contractors LLC, Kaya Trucking, Longford Landscapes & Excavation, Inc., Mathis Construction Co Inc., Samson Concrete and Masonry, Shimp Farms, South Jersey Contracting LLC, V.A. Spatz and Sons Construction, Inc., and Woolston Construction Company, were Automatically Rejected by the PRU pursuant to the provisions of N.J.A.C. 17:12-2.2. Protests were received from Longford Landscapes & Excavation, Inc., Samson Concrete and Masonry, South Jersey Contracting LLC, V.A. Spatz and Sons Construction, Inc., and Woolston Construction Company. Final Agency Decisions responding to the protests and upholding the PRU automatic rejections were sent to these bidders and no appeals were filed in response to the Final Agency Decisions stemming from PRU rejections. The PRU also issued formal notice and a warning letter to four (4) Bidders that they were not in compliance with Business Registration Certificate requirements. The remaining one hundred sixty-eight (168) Quotes were deemed administratively complete by the Proposal Review Unit and released to the Bureau for further review and evaluation. The list of bidders who submitted administratively complete Quotes and could be evaluated by the Unit are listed below. Note, some bidders submitted separate quotes for different price lines. The list below contains the one hundred fifty five (155) bidders whose Quotes were evaluated by the Unit.

A & J Construction Co.	Jer-Car Inc.
A to Z Site Contractors Inc	Jerrell's Landscapes & Nurseries Inc
A&M Paving and Excavating LLC	Jersey Construction, Inc.
A.Veniero & Sons	JHONATAN TRUCKING LLC
AGS Materials & Supply LLC	JMN Paving and Masonry Inc.
AIT Express LLC	Kaanka Trucking, LLC
AKGUN TRANSPORTATION LLC	Katherine Transportation LLC
Alliance Materials	KCM CONSTRUCTION LLC
Alpha National LLC	Keeping it Savage LLC
Anatolia Transport LLC	Ken Nagy Jr and son trucking llc
ANKAPOINT LLC	KMG Contracting LLC
anthony yaros industries	LC Trucking LLC
Asc Logistics LLC	Leslie DeMarino
ATA LLC	Liberty Us Transport LLC
AW Kurth Trucking	Lourenco Contracting Co. Inc.
Beites Inc	M & M Trucking Gudullu LLC
Big Boss Trucking LLC	M MATIAS TRUCKING INC

Breen Topsoil Inc.	MARK VENIERO TRUCKING
BRENNAN BROS CONSTRUCTION LLC	Matthew J. Yuhas Trucking L.L.C
Brook Brothers Enterprises LLC	MECO INC
Burak Trucking LLC	Mershon Concrete LLC
BVW Services LLC	Messercola Excavating Co Inc.
C and J Property Management	Mike and Sons Trucking Hauling LLC
Caner Transportation, LLC	Mireku & Son LLC
Canyon Trucking Inc	MYK TRUCKING LLC
CCM Contracting, Inc.	NKO Trucking LLC
Cedar Ridge Lawn Care LLC	Nonstop Trucking LLC
Ceylan Trucking LLC	NSG GROUP LLC
Charles T. Matarazzo Excavating & Masonry	On Point Excavation LLC
Clarke Moynihan Landscaping & Construction LLC	OZY Trucking, LLC
Colonnelli Brothers, Inc.	P&O Transport LLC
Costa Haulers, LLC	P. Esposito Construction, LLC
D&R Paving LLC	P.M. Construction Corp.
Darby Trucking LLC	Paving Plus LLC
Dargi Trucking, LLC	Persistent Construction
Debex Contractors LLC	Pierson Landscaping and Design LLC
Demir Trucking LLC	Porchetta Land & Site llc
DI Trucking, LLC	Prieto Enterprises LLC
Diamond Materials, LLC	Quick Transport Co Inc
DKB Transport Corp	R&B Debris
Double O Contracting LLC	R.M. Tuit Paving & Trucking Contractor, LLC
Double O Landscape Design LLC	RJM LANDSCAPE AND DESIGN LLC
dvs trucking co	Rockstar Transportation LLC
Eazy Trucking llc	Rodota Trucking & Excavating, LLC
ECE Transport LLC	SALOMONE BROS INC
EL BO Incorporated	Sandra Scanlon LLC
Ema Trucking LLC	Sarp Transportation LLC
Encalada Trucking LLC	SDK Trucking LLC
Enes Trucking LLC	Seashore Asphalt Corp.
Eren Transportation LLC	SFB Trucking LLC
ESPOSITO CONSTRUCTION LLC	Shorty Trucking LLC
fafa trucking llc	SIL Trucking LLC
Fatma Ozbay, Khan Trucking	Sil-Kemp, Inc.
Firtina Landscaping LLC	Sky Hauler LLC
Fn Allocco Trucking LLC	Smyrna Express
Frank Brodeen OLC LLC	Stilo Excavation Inc
Frank Galbraith & Son Excavating and Demolition, llc	Stomper Enterprises, Inc.
Frank Sutton Trucking, LLC.	STONE TRUCKING LLC
Freiberger Excavating, LLC	Stratton Contracting, LLC
FS Trucking LLC	T Hiler Contractors, LLC
G Boys Excavating Inc.	TCG Trucking LLC
Garden State Pavement Solutions LLC	Terco Enterprises LLC
Gee Vee Trucking Inc	Terrytown Equipment LLC
Gomez Brothers Trucking Inc	TJA Enterprises LLC

Gondul Trucking Inc	Tree King Inc.
Hardrock Trucking & Excavating LLC	Triple R Truck & Auto Leasing
Harrington & Son	Twilight Express LLC
HAS TRANSPORTATION	UN Transportation Inc
Hunterdon Horizons Inc	US1 TRUCKING LLC
IEW Construction Group Inc	V.H. Motto Contracting Inc.
Ivyland Construction Co. Inc.	Victor Transport LLC
J&D Trucking Inc.	WASHINGTON COLLISION CENTER LLP
J&K Toro Trucking	Westphal Waste Services
J&R Transport, LLC	Whittendale Excavating Corp.
James Miller Contracting, Inc.	Yasmin Trucking LLC
JDG Transport LLC	Yukon Services LLC
JEFF HACKETT & ASSOCIATES	Zivali Trucking LLC
Jeff Lampart Services LLC	

As part of the responsiveness review, the Bureau determined that numerous Quotes required a Request for Clarification, in accordance with Bid Solicitation Section 8.4, *Clarification of Quote*, for the Bureau to determine whether or not the Quotes were responsive to mandatory material requirements of the Bid Solicitation as outlined in the Recommendation Report with the resultant determination also contained within the Recommendation Report.

The Bureau determined that the Quotes submitted by Colonnelli Brothers, Inc., Whittendale Excavating Corp., Eazy Trucking LLC, NKO Trucking LLC, UIN Transportation Inc., Liberty US Transport LLC, M. Matias Trucking Inc., MYK Trucking LLC, Garden State Pavement Solutions LLC, Ankapoint LLC, Ken Nagy Jr and Son Trucking LLC, Seashore Asphalt Corpl, J&D Trucking Inc, DI Trucking LLC, Stratton Contracting LLC, and JDG Transport LLC, were fully non-responsive due to non-compliance with mandatory elements of the Bid Solicitation and therefore ineligible for award. Recommendation Report at pgs. 49-52. The Bureau found that the remaining Quotes met, and complied with, the mandatory requirements for at least one award-eligible Price Line of the Bid Solicitation.

Having completed its evaluation of the Quotes received in response to the Bid Solicitation, on June 27, 2025, the Bureau issued the NOI advising all Bidders that it was the State's intent to award Contracts to the 64 Bidders set forth in the chart on pages 1-14 of the Recommendation Report dated June 25, 2025 ("Recommendation Report")..

On July 7, 2025, prior to the close of the protest period, Sutton submitted a Protest challenging the Division's Contract Awards to various other Bidders.

Although Sutton 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 Sutton. 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 Sutton on the written record, as such an in-person hearing is not warranted. I set forth herein the Division's Final Agency Decision.

DISCUSSION

Responsive Quotes were evaluated by the Bureau consistent with the requirements of Bid Solicitation Section 8.9 *Evaluation Criteria*, which states in relevant part as follows:

8.9 EVALUATION CRITERIA

The following evaluation criteria categories, not necessarily listed in order of significance, will be used to evaluate Quotes received in response to this Bid Solicitation. The evaluation criteria categories may be used to develop more detailed evaluation criteria to be used in the evaluation process.

8.9.1 TECHNICAL EVALUATION CRITERIA

- A. Experience of Bidder Attachment #3: The Bidder must have at least two (2) years of experience performing the specific service (snow plowing and/or spreading) on public roadways in order to be considered for award of that service;
- B. Equipment Preference: The type of Bidder equipment bid on the State-Supplied Price Sheet. See Section 8.9.2, subsections included; and
- C. Price: The Bidder's pricing provided on the State-Supplied Price Sheet(s) for each Price Line. See Section 8.9.2, subsections included, for information regarding the pricing evaluation methodology.

After the review and evaluation of all Quotes received in response to the Bid Solicitation was completed, the Bureau completed a Recommendation Report which recommended Contract awards to those responsive and responsible Bidders whose Quotes, conforming to the Bid Solicitation are most advantageous to the State, price and other factors considered. On June 27, 2025, the NOI was issued advising all Bidders that it was the State's intent to award Contracts consistent with the Bureau's Recommendation Report.¹ With respect to the Quote submitted by Sutton, the Bureau's Recommendation Report in part states the following:

The Quote submitted by Frank Sutton was deemed by the Bureau to be responsive to the mandatory requirements of the Bid Solicitation. As part of its Quote, Frank Sutton provided a Plowing and Hauling Services State-Supplied Price Sheet, an Other Equipment State-Supplied Price Sheet, and a Spreading Services State-Supplied Price Sheet. Frank Sutton provided a completed Attachment 3 – Experience of Bidder form, denoting it has the minimum two (2) years' experience in plowing and spreading services, and is thus eligible for award of both service categories. Additionally, Frank Sutton provided a completed Ownership disclosure Form with its Quote.

¹ The list of Bidders who are recommended to receive Contract awards are listed in the Bureau's June 27, 2025 Recommendation Report.

The Bureau determined that the Bidder was responsive for all Price Lines submitted as part of its Quote.

[Recommendation Report, p. 39.]

On July 7, 2025, the Division received Sutton's protest challenging the intended Contract awards. Sutton's Protest states points and the Division's response thereto are set forth in the chart below:

Bidder Name	Sutton Protest Claim	Division Response
Yukon Services LLC	Failed to list "Yard Names" on State Supplied Price Sheet Other Equipment sheet.	Pursuant to Bid Solicitation, section 3.17.2, <i>OTHER EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i> , Step 3, bidders are required to "denote the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment". The Bid Solicitation did not require that Bidders list the Yard Name. Supplying the Yard Number was sufficient to denote where the Bidder was "willing and able to provide equipment", <u>Id.</u> as required in the Bid Solicitation.
Jeff Lampart Services LLC	Failed to list "Yard Names" on State Supplied Price Sheet Other Equipment sheet.	Pursuant to Bid Solicitation, section 3.17.2, <i>OTHER EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i> , Step 3, bidders are required to "denote the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment". The Bid Solicitation did not require that Bidders list the Yard Name. Supplying the Yard Number was sufficient to denote where the Bidder was "willing and able to provide equipment", <u>Id.</u> as required in the Bid Solicitation.

Cedar Ridge Lawn Care LLC	Failed to list "Yard Names" on State Supplied Price Sheet Other Equipment sheet.	Pursuant to Bid Solicitation, section 3.17.2, <i>OTHER EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i> , Step 3, bidders are required to "denote the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment". The Bid Solicitation did not require that Bidders list the Yard Name. Supplying the Yard Number was sufficient to denote where the Bidder was "willing and able to provide equipment", <u>Id.</u> as required in the Bid Solicitation.
T Hiler Contractors LLC	Failed to list "Yard Names" on State Supplied Price Sheet Other Equipment sheet.	Pursuant to Bid Solicitation, section 3.17.2, <i>OTHER EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i> , Step 3, bidders are required to "denote the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment". The Bid Solicitation did not require that Bidders list the Yard Name. Supplying the Yard Number was sufficient to denote where the Bidder was "willing and able to provide equipment", <u>Id.</u> as required in the Bid Solicitation.
Salomone Bros Inc.	Failed to list "Yard Names/#" utilizing Column A of attachment 6 on State Supplied Price Sheet Other Equipment sheet.	Pursuant to Bid Solicitation, section 3.17.2, <i>OTHER EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i> , Step 3, bidders are required to "denote the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment". The Bid Solicitation did not require that Bidders list the "Yard Names/#" utilizing Column A of attachment 6" as Sutton

		suggests. In fact, the “Yard Name” is listed in Column B of the State Supplied Price Sheet for Other Equipment. “[D]enot[ing] the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment,” <u>Id.</u> is what is required pursuant to the Bid Solicitation.
Jeff Hackett & Associates LLC	Failed to list “Yard Names/#” utilizing Column A of attachment 6 on State Supplied Price Sheet Other Equipment sheet.	Pursuant to Bid Solicitation, section 3.17.2, <i>OTHER EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i>, Step 3, bidders are required to “denote the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment”. The Bid Solicitation did not require that Bidders list the “Yard Names/#” utilizing Column A of attachment 6” as Sutton suggests. In fact, the “Yard Name” is listed in Column B of the State Supplied Price Sheet for Other Equipment. “[D]enot[ing] the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment,” <u>Id.</u> is what is required pursuant to the Bid Solicitation.
Jeff Hackett & Associates LLC	On Offer and Acceptance Page, there is no Title listed.	Pursuant to Bid Solicitation Section 3.13.1, <i>OFFER AND ACCEPTANCE PAGE</i> this is a form that “[t]he Bidder should complete and submit”, but is not a mandatory form to be submitted prior to Quote opening. If a Bidder fails to submit it, the State can request it post Quote opening. Failure to list the title of the person who signs it is a minor discrepancy that does not disqualify a Bidder. Should the State deem it

		necessary to have the title, it can request this information from the Bidder post Quote opening.
CCM Contracting Inc.	Did not list Bidder Name on State Supplied Price Sheet Other Equipment sheet.	Pursuant to Bid Solicitation Section 3.17.2 <i>OTHER EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i> , Step 1: “Bidders should enter its name in the field titled Bidder Name.”. As this is something the Bidder “should” do rather than something the Bidder “must” or “shall” do, a Bidder is not non-responsive for failing to provide their name on the State Supplied Price Sheet. Indeed, as the State Supplied Price Sheet must be electronically submitted under the Bidder’s Vendor Profile and the specific Bid Solicitation along with the other required documents, the State is ensured the identity of the Bidder as it applies to the State Supplied Price Sheet.
Gomez Brothers Trucking Inc.	Did not list Bidder Name on State Supplied Price Sheet Other Equipment sheet.	Pursuant to Bid Solicitation Section 3.17.2 <i>OTHER EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i> , Step 1: “Bidders should enter its name in the field titled Bidder Name.”. As this is something the Bidder “should” do rather than something the Bidder “must” or “shall” do, a Bidder is not non-responsive for failing to provide their name on the State Supplied Price Sheet. Indeed, as the State Supplied Price Sheet must be electronically submitted under the Bidder’s Vendor Profile and the specific Bid Solicitation along with the other required documents, the State is ensured the identity of the Bidder as it applies to the State Supplied Price Sheet.
Gomez Brothers Trucking Inc.	Failed to list “Yard Names” utilizing Column A of	Pursuant to Bid Solicitation, section 3.17.2, <i>OTHER</i>

	attachment 6 on State Supplied Price Sheet Other Equipment sheet.	<i>EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i> , Step 3, bidders are required to “denote the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment”. The Bid Solicitation did not require that Bidders list the “Yard Names/#’ utilizing Column A of attachment 6” as Sutton suggests. In fact, the “Yard Name” is listed in Column B of the State Supplied Price Sheet for Other Equipment. “[D]enot[ing] the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment,” <u>Id.</u> is what is required pursuant to the Bid Solicitation.
J&R Transport LLC	On Offer and Acceptance Page, there is no Title listed.	Pursuant to Bid Solicitation Section 3.13.1, <i>OFFER AND ACCEPTANCE PAGE</i> this is a form that “[t]he Bidder should complete and submit”, but is not a mandatory form to be submitted prior to Quote opening. If a Bidder fails to submit it, the State can request it post Quote opening. Failure to list the title of the person who signs it is a minor discrepancy that does not disqualify a Bidder. Should the State deem it necessary to have the title, it can request this information from the Bidder post Quote opening.
Double O Landscape Design	Did not list Bidder Name on State Supplied Price Sheet Other Equipment sheet.	Pursuant to Bid Solicitation Section 3.17.2 <i>OTHER EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i> , Step 1: “Bidders should enter its name in the field titled Bidder Name.”. As this is something the Bidder “should” do rather than something the Bidder

		“must” or “shall” do, a Bidder is not non-responsive for failing to provide their name on the State Supplied Price Sheet. Indeed, as the State Supplied Price Sheet must be electronically submitted under the Bidder’s Vendor Profile and the specific Bid Solicitation along with the other required documents, the State is ensured the identity of the Bidder as it applies to the State Supplied Price Sheet.
Double O Landscape Design	Failed to list “Yard Names” on State Supplied Price Sheet Other Equipment sheet.	Pursuant to Bid Solicitation, section 3.17.2, <i>OTHER EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i>, Step 3, bidders are required to “denote the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment”. The Bid Solicitation did not require that Bidders list the Yard Name. Supplying the Yard Number was sufficient to denote where the Bidder was “willing and able to provide equipment”, <u>Id.</u> as required in the Bid Solicitation.
Leslie DeMarino	Did not list Bidder Name on State Supplied Price Sheet Other Equipment sheet.	Pursuant to Bid Solicitation Section 3.17.2 <i>OTHER EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i>, Step 1: “Bidders should enter its name in the field titled Bidder Name.”. As this is something the Bidder “should” do rather than something the Bidder “must” or “shall” do, a Bidder is not non-responsive for failing to provide their name on the State Supplied Price Sheet. Indeed, as the State Supplied Price Sheet must be electronically submitted under the Bidder’s Vendor Profile and the specific Bid Solicitation along with the other required documents, the State is

		ensured the identity of the Bidder as it applies to the State Supplied Price Sheet.
Leslie DeMarino	On Offer and Acceptance Page, there is no Title listed.	Pursuant to Bid Solicitation Section 3.13.1, <i>OFFER AND ACCEPTANCE PAGE</i> this is a form that “[t]he Bidder should complete and submit”, but is not a mandatory form to be submitted prior to Quote opening. If a Bidder fails to submit it, the State can request it post Quote opening. Failure to list the title of the person who signs it is a minor discrepancy that does not disqualify a Bidder. Should the State deem it necessary to have the title, it can request this information from the Bidder post Quote opening.
Leslie DeMarino	Ownership Disclosure Form uses the wrong format because the information is handwritten.	Bid Solicitation Section 3.13.2, <i>OWNERSHIP DISCLOSURE FORM</i> , requires Bidders to submit an Ownership Disclosure Form electronically. Neither Bid Solicitation Section 3.13.2 nor N.J.S.A. 52:25-24.2 requires that the information included on the form is typed. Handwritten information on the form is acceptable.
Leslie DeMarino	Ownership Disclosure Form Question #4 is answered incorrectly.	Bid Solicitation Section 3.13.2, <i>OWNERSHIP DISCLOSURE FORM</i> , requires Bidders to submit an Ownership Disclosure Form electronically. Leslie DeMarino provided a completed Ownership Disclosure Form which fully disclosed the company’s ownership structure. While it was not necessary to answer Question 4 as no “corporations, partnerships, or limited liability companies” were listed in response to Question #3, providing duplicate information on the Ownership Disclosure Form does not render a Bidder non-responsive.

Leslie DeMarino	Failed to list “Yard Names/#” utilizing Column A of attachment 6 on State Supplied Price Sheet Other Equipment sheet.	Pursuant to Bid Solicitation, section 3.17.2, <i>OTHER EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i> , Step 3, bidders are required to “denote the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment”. The Bid Solicitation did not require that Bidders list the “Yard Names/#” utilizing Column A of attachment 6” as Sutton suggests. In fact, the “Yard Name” is listed in Column B of the State Supplied Price Sheet for Other Equipment. “[D]enot[ing] the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment,” <u>Id.</u> is what is required pursuant to the Bid Solicitation.
Porchetta Land & Site LLC	Failed to list “Yard Names” on State Supplied Price Sheet Other Equipment sheet.	Pursuant to Bid Solicitation, section 3.17.2, <i>OTHER EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i> , Step 3, bidders are required to “denote the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment”. The Bid Solicitation did not require that Bidders list the Yard Name. Supplying the Yard Number was sufficient to denote where the Bidder was “willing and able to provide equipment”, <u>Id.</u> as required in the Bid Solicitation.
Messercola	Failed to list “Yard Names” on State Supplied Price Sheet Other Equipment sheet.	Pursuant to Bid Solicitation, section 3.17.2, <i>OTHER EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i> , Step 3, bidders are required to “denote the Maintenance Yards

		(corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment”. The Bid Solicitation did not require that Bidders list the Yard Name. Supplying the Yard Number was sufficient to denote where the Bidder was “willing and able to provide equipment”, <u>Id.</u> as required in the Bid Solicitation.
Messercola	Failed to list “Yard Names/#” utilizing Column A of attachment 6 on State Supplied Price Sheet Other Equipment sheet.	Pursuant to Bid Solicitation, section 3.17.2, <i>OTHER EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i> , Step 3, bidders are required to “denote the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment”. The Bid Solicitation did not require that Bidders list the “Yard Names/#” utilizing Column A of attachment 6” as Sutton suggests. In fact, the “Yard Name” is listed in Column B of the State Supplied Price Sheet for Other Equipment. “[D]enot[ing] the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment,” <u>Id.</u> is what is required pursuant to the Bid Solicitation.
Messercola	Additional information was added and they failed to submit their bid in Excel Format.	Messercola provided pricing on the State-Supplied Price sheet as required pursuant to Bid Solicitation, Section 3.17, <i>STATE-SUPPLIED PRICE SHEET INSTRUCTIONS</i> . The Bid Solicitation does not require that the pricing information be typed or bid “in Excel Format” as Sutton argues. Messercola did not add “Additional information” in their State-Supplied Price Sheet as Sutton argues. Bid Solicitation, section

		3.17.2, <i>OTHER EQUIPMENT (PRICE LINES 318-326) PRICE SHEET INSTRUCTIONS</i>, Step 3, bidders are required to “denote the Maintenance Yards (corresponding to those listed in Attachment #6) for which it is willing and able to provide equipment”. Messercola provided the Price Line number, Municipality and Crew Number from Attachment #6, all of which denoted which Maintenance Yards they were willing and able to provide equipment for as required pursuant to the Bid Solicitation.
Sarp Transportation	Source Disclosure form is incomplete as boxes not checked In part 1.	Pursuant to Bid Solicitation Section 3.13.6, <i>SERVICE PERFORMANCE WITHIN THE UNITED STATES</i>, states that “[t]he Bidder should submit a completed Source Disclosure Form”, but is not a mandatory form to be submitted prior to Quote opening. If a Bidder fails to submit it, the State can request it post Quote opening. In this case, as Sarp Transportation’s initial Source Disclosure form was incomplete, the Bureau requested a completed Source Disclosure form which was provided by Sarp Transportation.
Sarp Transportation	Certification of non-involvement in prohibited activities in Russia or Belarus is incomplete in violation of N.J.S.A. 52:25-24.2.	Pursuant to Bid Solicitation Section 3.13.14, <i>CERTIFICATION OF NON-INVOLVEMENT IN PROHIBITED ACTIVITIES IN RUSSIA OR BELARUS PURSUANT TO P.L.2022, C.3</i>, states that “[t]he Bidder should submit the Certification of Non-Involvement in Prohibited Activities in Russia or Belarus Form.” If a Bidder fails to submit it, the State can request it post Quote opening. In this case, as Sarp Transportation’s initial

		Certification of Non-Involvement in Prohibited Activities in Russia or Belarus Form was incomplete, the Bureau requested a completed Source Disclosure form which was provided by Sarp Transportation. It should be noted that Sutton is incorrect in saying that failing to provide this form violates N.J.S.A. 52:25-24.2. The Statute cited by Sutton relates solely to the requirement of Ownership Disclosure to be awarded a contract by the State, county municipality or school district.
AKGUN Transportation	Source Disclosure form is incomplete as boxes not checked In part 1.	Pursuant to Bid Solicitation Section 3.13.6, <i>SERVICE PERFORMANCE WITHIN THE UNITED STATES</i>, states that “[t]he Bidder should submit a completed Source Disclosure Form”, but is not a mandatory form to be submitted prior to Quote opening. If a Bidder fails to submit it, the State can request it post Quote opening. In this case, as AKGUN Transportation’s initial Source Disclosure form was incomplete, the Bureau requested a completed Source Disclosure form which was provided by ARGUN Transportation.
AKGUN Transportation	Disclosure of Investment Activities in Iran form is not complete as neither box is selected.	Pursuant to Bid Solicitation Section 3.13.3, <i>DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM</i>, “[t]he Bidder should submit Disclosure of Investment Activities in Iran form . . .”. Bid Solicitation Section 3.13.3 also states that the Bidder can “complete this certification online in NJSTART on the ‘Terms and Categories’ Tab”, which AKGUN Transportation did.
AKGUN Transportation	McBride Principles form is incomplete as neither box is	Bid Solicitation Section 3.13.5, <i>MACBRIDE PRINCIPLES</i>

	checked in violation of N.J.S.A. 52:25-24.2.	<i>FORM</i> , states that “[t]he Bidder should submit the MacBride Principles Form. If a Bidder fails to submit it, the State can request it post Quote opening. In this case, as AKGUN Transportation’s initial Source Disclosure form was incomplete, the Bureau requested a completed Source Disclosure form which was provided by ARGUN Transportation. It should be noted that Sutton is incorrect in saying that failing to provide this form violates N.J.S.A. 52:25-24.2. The Statute cited by Sutton relates solely to the requirement of Ownership Disclosure to be awarded a contract by the State, county municipality or school district.
KMG Contracting LLC	Source Disclosure form is incomplete as boxes not checked In part 1.	Pursuant to Bid Solicitation Section 3.13.6, <i>SERVICE PERFORMANCE WITHIN THE UNITED STATES</i> , states that “[t]he Bidder should submit a completed Source Disclosure Form”, but is not a mandatory form to be submitted prior to Quote opening. If a Bidder fails to submit it, the State can request it post Quote opening.
KMG Contracting LLC	Certification of non-involvement in prohibited activities in Russia or Belarus is incomplete in violation of N.J.S.A. 52:25-24.2.	Pursuant to Bid Solicitation Section 3.13.14, <i>CERTIFICATION OF NON-INVOLVEMENT IN PROHIBITED ACTIVITIES IN RUSSIA OR BELARUS PURSUANT TO P.L.20222, C.3</i> , states that “[t]he Bidder should submit the Certification of Non-Involvement in Prohibited Activities in Russia or Belarus Form.” If a Bidder fails to submit it, the State can request it post Quote opening. It should be noted that Sutton is incorrect in saying that failing to provide this form violates N.J.S.A. 52:25-24.2. The Statute cited by

		Sutton relates solely to the requirement of Ownership Disclosure to be awarded a contract by the State, county municipality or school district.
KMG Contracting LLC	The Experience of bidder form is incomplete as Question #2 is not answered numerically.	Attachment 3 – Experience of Bidder form required Bidders to “Either check appropriate Box or write answer”. Here KMG Contracting LLC answered in Question 3.b. in the affirmative that the company has two (2) or more years of experience performing salt spreading services on public roadways.

The term “should” denotes a permissible or recommended requirement as further set forth in the Bid Solicitation’s glossary:

Should – Denotes that which is permissible or recommended, not mandatory.

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

Must – Denotes that which is a mandatory requirement.

[Bid Solicitation Section 9. GLOSSARY]

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

Shall – Denotes that which is a mandatory requirement.

[Bid Solicitation Section 9. GLOSSARY]

Forms or documents submitted by other Bidders that Sutton took issue with such as: failure to list Bidder name on a State Supplied Price Sheet, Offer and Acceptance Page without a title listed in the “Title” field, incomplete Source Disclosure Form, incomplete Certification of Non-Involvement in Prohibited Activities in Russia or Belarus Form, incomplete Disclosure of Investment Activities in Iran form, and incomplete MacBride Principles Form were all forms or fields that Bidders “should” complete, with the specific Bid Solicitation section set forth in the chart above. These documents or fields were not mandatory based on the definition of “should” that is contained within the Bid Solicitation. As these items were not mandatory a Bidder’s failure to include them with their Quote does not render that Bidder’s Quote non-responsive to the requirements of the Bid Solicitation.

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)).

When evaluating Quotes received, the Division is charged with ensuring that the Contract is awarded to that responsible Bidder whose Quote, conforming to the Bid Solicitation, is most advantageous to the State, price and other factors considered. Bid Solicitation Section 1.1 *Purpose and Intent*. A responsive Quote is a Quote that is deemed by the Division and/or evaluation committee to have adequately addressed all material provisions of a Bid Solicitation’s terms and conditions, specifications, and other requirements. N.J.A.C. 17:12-1.3. A Quote that is not complaint or responsive to the material requirements of the Bid Solicitation 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, the chart above displays that the proposed irregularities complained of by Sutton do not fall outside of the Bid Solicitation’s requirements such that they would cause a Bidder to be non-responsive and ineligible for contract award. Each of the respective Bidders’ documents provided the required information in an appropriate manner within the relevant time period. As such, the recommended awards were made in accordance with the bidding requirements for this procurement.

CONCLUSION

Based upon the foregoing, I find no reason to disturb the Bureau’s recommendation that the Contract be awarded as outlined in the Recommendation Report. Accordingly, I sustain the June 27, 2025, Notice of Intent to Award. This is my final agency decision.

Thank you for your company’s 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
Acting Chief Hearing Officer

CKK:CMD

c: C. Clarke
M. Maciolek