



State of New Jersey

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

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November 21, 2025

Via Electronic Mail Only to Peyton.Chadwick@altec.com

Peyton Chadwick
Altec Inc.
500 Oakwood Road
Watertown, SD 57201

Re: I/M/O Bid Solicitation #25DPP01161 Altec Inc.
Protest of Notice of Intent to Award
T3133 Large Bucket Truck, 37,000 LB. GVWR Cab & Chassis with Utility Body & Access. REBID

Dear Mr. Chadwick:

This final agency decision is in response to the protest dated November 12, 2025 ("Protest"), submitted by Altec Inc. ("Altec") and received by the Division of Purchase and Property's ("Division") Hearing Unit. In that correspondence, Altec protests the Notice of Intent to Award dated October 28, 2025, by the Division's Procurement Bureau ("Bureau") for Bid Solicitation #25DPP01161 – T3133 Large Bucket Truck, 37,000 LB. GVWR Cab & Chassis with Utility Body & Access. REBID Statewide ("Bid Solicitation"). The record of this procurement reveals that the Quote submitted by Altec was deemed non-responsive as set forth in the Recommendation Report dated October 23, 2025 ("Recommendation Report") for failure to submit a firm, fixed price for Price Lines 3 and 5. Altec was also found non-responsive for submitting a document titled "Marked up bid specs" with their Quote, as this document attempted to modify certain Bid Solicitation specifications. In their correspondence, Altec argued that "no representative from the Department contacted Altec to request clarification or additional information regarding cited in the award recommendation. We believe that such communication could have easily resolved the noted concerns". Protest, page 2. Altec further argues that their changes to the specification were required after consultation with Freightliner since the two (2) items Altec marked up were not available from the manufacturer. Additionally, with their Protest, Altec submitted a conforming State Supplied Price Sheet.

By way of background, on May 21, 2025, the Division's Procurement Bureau ("Bureau") issued the Revised Bid Solicitation on behalf of the Using Agencies. The purpose of the Bid Solicitation was to solicit "Quotes for a Large Bucket Truck, 37, 000 LB. GVWR Heavy Duty Truck Cab and Chassis, With Utility Body, Aerial Lift and Accessories." 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." *Id.*

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 May 2, 2025. Two (2) Bid Amendments were issued for this Bid Solicitation, which provided revisions to the Quote Opening Date, the Bid Solicitation and responses to questions received from potential Bidders.

On June 26, 2025, the PRU opened five (5) Quotes, one of which was a no bid, which were received by the submission deadline of 2:00 pm eastern time. After conducting an initial review of the Quotes received for compliance with mandatory Quote submission requirements, it was determined that Gabrielli Kenworth's Quote was non-responsive for failing to submit an Ownership Disclosure Form, as required in Bid Solicitation Section 3.13.2. The remaining 3 Quotes were sent to the Bureau for further evaluation.

On or about October 28, 2025, the Bureau sent a Notice of Intent to Award and Recommendation Report to Altec. On November 12, 2025, prior to the close of the protest period, Altec submitted a Protest alleging that the Bureau should have contacted Altec to "request clarification or additional information regarding the items cited in the award recommendation". Protest, page 2. Altec states that with respect to price lines 3 and 5, they have historically "provided combined pricing for these components, as they are integrated during final assembly and represent a single, inclusive cost". Protest, page 2. With respect to their supplied pricing on Price Line 9, Altec states that "this was not intended as variable pricing but rather a detailed cost breakdown to offer the State flexibility and transparency regarding available color options." Protest, page 2. Regarding the Bureau's determination that Altec modified the Bid Specifications found in the Bid Solicitation Altec stated:

Specifically, exceptions were noted regarding: • Starter Specification: The specification required that "the unit's starter shall be 12 volts and shall have thermal over-crank/circuit protection." After consultation with Freightliner, it was confirmed that this configuration is not available with the Cummins B6.7 engine. Freightliner advised that the thermal protection starter is only available on models equipped with the Cummins L9 engine. The B6.7 engine design allows for easier engine cranking, meaning starter overheat conditions are not typically encountered—hence the exclusion of thermal protection in this configuration. • Exhaust System Guard: The specification also required that "stainless steel muffler/tailpipe guards shall be provided." Freightliner confirmed that the horizontal exhaust configuration on the M2-106 chassis does not allow for guards to be installed due to the system's routing and placement. Conversely, shield options are available only on vertical exhaust configurations. These exceptions were made solely to reflect current manufacturer capabilities and to ensure technical accuracy with respect to Freightliner's engineering standards.

Protest page 2.

Although Altec 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 Reports, the relevant statutes, regulations, case law, and the protest submitted by Altec. 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 Altec 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)).

Bid Solicitation Section 3.36, *State-Supplied Price Sheet Instructions*, informs bidders that they “must bid on all Price Lines 1 through 10 within the group in order for its Quote to be considered responsive. If a Bidder does not bid on all Price Lines 1 through 10 within the group, its Quote shall be considered non-responsive.”

Bid Solicitation Section 3.36 *State-Supplied Price Sheet Instructions* Step 4 states:

Step 4 – For Price Lines 1, 3, 5, 7, 8, and 9: The Bidder shall insert a firm, fixed price in US dollars in the field titled “Unit Price” on the State-Supplied Price Sheet. If a Bidder leaves the “Unit Price” field blank, its Quote shall be deemed non-responsive.

As stated in the Recommendation Report, Altec did not insert a firm, fixed price in US Dollars for Price Lines 3 and 9 on their State-Supplied Price Sheet (“SSPS”). On the SSPS in the Unit Price column for Price Line 3, Altec wrote “Refrence [sic.] Price Line 5”. On the SSPS in the Unit Price column for Price Line 9, Altec wrote “Chassis - \$0 Unit - \$1200 Body - \$563”.

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*.]

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 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 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 compliant 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, Altec did not submit mandatory pricing for Price Lines 3 or 9 on the SSPS with their Quote (nor at any point prior to the Quote Opening Date).

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).

Not submitting firm, fixed pricing in US Dollars on two mandatory Price Lines is a non-waivable deviation under River Vale. Allowing Altec to provide a new, conforming SSPS (which was included with their Protest), after the Quote submission deadline would result in an impermissible supplementation of the Quote, which the Division cannot allow as doing so would be contrary to the Court’s holding in In re Protest of Award of On-Line Games Prod. & Operation Servs. Contract, Bid No. 95-X-20175, 279 N.J. Super. 566, 597 (App. Div. 1995). In On-Line Games, the Appellate Division held that “in clarifying or elaborating on a proposal, a bidder explains or amplifies what is already there. In supplementing, changing or correcting a proposal, the bidder alters what is there. It is the alteration of the original proposal which was interdicted by the RFP”. *Id.* Whether the missing information from the SSPC was the result of how Altec has “Historically . . . provided combined pricing for these components” Protest, page 2, is immaterial. Here, the Division cannot accept Altec providing a new SSPS, as doing so is an impermissible supplementation, change and correction to the submitted Quote.

Altec does not deny that they submitted language which revised certain specifications in Bid Solicitation Section 4.4, *Unit Specifications – Technical Provisions*. In fact, in their Protest Altec argues that their changes to the specification were required after consultation with Freightliner since the two (2) items Altec marked up were not available from the manufacturer. Altec states, “These exceptions were made solely to reflect current manufacturer capabilities and to ensure technical accuracy with respect to Freightliner’s engineering standards.” Protest, page 2.

In their hand written revisions to the Bid Solicitation, titled “Marked up bid specs” and submitted with their Quote and in their Protest, Altec is attempting to challenge the specifications in the Bid Solicitation to reflect “current manufacturer capabilities and to ensure technical accuracy with respect to Freightliner’s engineering standards”. Protest, page 2. The Division’s administrative regulations, found at N.J.A.C. 17:12-3.2, *Protest Procedures; challenges to a specification*, provide the procedure to challenge a specification in the Bid Solicitation. These regulations require a protest of specifications to be filed at least seven (7) business days prior to Quote opening. Altec’s failure to protest the specifications in the Bid Solicitation, and instead provide a “mark up” of specifications in the Bid Solicitation creates a material, non-waivable deviation from the requirements of the Bid Solicitation under River Vale. Additionally, during the electronic Question and Answer period provided in Bid Solicitation Section 2.1, Altec could

have raised these issues with respect to what was available from the manufacturer. Altec asked three (3) questions during the electronic Question and Answer period, however, none related to the specifications in Bid Solicitation Sections 4.4.1.6 *Electrical System* and 4.4.1.10 *Chassis Equipment* which Altec “marked up” and submitted with their Quote.

With respect to Altec’s argument that “no representative from the Department contacted Altec to request clarification or additional information” Protest, page 2, it is clear from Bid Solicitation Section 2, *Pre-Quote Submission Information*, that “[t]he Bidder assumes sole responsibility for the complete effort required in submitting a Quote and for reviewing the Quote submission requirements and the Scope of Work requirements”. It is the Bidder’s obligation to comply with the requirements contained within the Bid Solicitation. Had the Bureau reached out to Altec “for clarification prior to the award determination” and allowed Altec to “address[] these concerns in full and demonstrate[] responsiveness to all bid requirements”, Protest, page 2, any information that Altec provided would have been an impermissible supplementation, change and correction to the submitted Quote.

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 Altec’s Quote to proceed to award in light of their failure to submit a properly completed SSPC and their modifications to the specifications required under the Bid Solicitation would place Altec in a superior position among bidders under this Bid Solicitation.

Based upon the findings set forth above, I find no reason to disturb the determination that the Quote submitted by Altec was non-responsive to the requirements of the Bid Solicitation. Accordingly, I sustain the October 28, 2025, 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,



Cory K. Kestner, Esq.

Acting Chief Hearing Officer

CKK: CMD

c. K. Thomas
B. Birchmeier
G. Longmuir