



State of New Jersey

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April 23, 2026

Via Electronic Mail vincent.lee@arup.com

Vincent Lee
Arup US, Inc.
77 Water Street
New York, NY 10005

Re: I/M/O Bid Solicitation #24DPP01041 Arup US, Inc.
Protest of Notice of Intent to Award
T3103 Program Administrator – Resilience Planning Projects

Dear Mr. Lee:

This final agency decision is in response to your protest letter dated April 20, 2026 (Protest), regarding Bid Solicitation #24DPP01041 - T3103 Program Administrator – Resilience Planning Projects (Bid Solicitation), to the Division of Purchase and Property (Division) on behalf of Arup US, Inc. (Arup). In that letter, Arup argues that Arup's bid should not have been rejected for including an additional column entitled "Firm rate being used" as it was "added solely for internal transparency and cross-checking purposes and did not modify, obscure, or replace any information required by the State-Supplied Price Sheet." Protest, Page 1. Specifically, Arup inquires whether "whether the submission may be deemed responsive notwithstanding this inadvertent formatting addition". Arup Protest Application (Application), Page 2.

By way of background, the subject Bid Solicitation was issued by the Division's Procurement Bureau (Bureau) on behalf of the New Jersey Department of Environmental Protection (NJDEP) to solicit Quotes from qualified Bidders possessing the experience, expertise and creativity to lead and provide technical assistance for New Jersey Resilience Planning Projects. Bid Solicitation Section 1.1, *Purpose and Intent*. In accordance with Bid Solicitation Section 2.5, *Optional Pre-Quote Conference*, an Optional Pre-Quote Conference was held on June 12, 2025. Bidders' electronic questions were due to the Bureau by June 19, 2025. The Quote Submission due date was extended on three occasions: July 11, July 17, and August 6, 2025. The Bureau received sixty-six (66) Bidder questions for this procurement. The Bureau posted Bid Amendments #1 and 2, with answers to the questions received from potential Bidders, on August 15 and August 26, 2025, respectively. The Revised Bid Solicitation and Revised State-Supplied Price Sheet were also made available on August 15, 2026.

On September 30, 2025, the Division's Proposal Review Unit opened thirteen (13) Quotes 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, all thirteen Quotes were forwarded to the Bureau for evaluation.

In conducting the review of the Quotes, the Bureau determined that five of the bidders, including Arup, were non-responsive to the mandatory requirements of the Bid Solicitation, and thus ineligible for further evaluation and consideration for award. See Page 4, Recommendation Report dated April 4, 2026 (Recommendation Report).

Arup's submitted Quote was deemed non-responsive for modifying the Revised State-Supplied Price Sheet by adding an additional column entitled "Firm rate being used". See Page 4, Recommendation Report dated April 4, 2026. Bid Solicitation Section 3.27, *State-Supplied Price Sheet Instructions*, states (emphasis added in bold): "Any additional or supplemental versions of the Revised State-Supplied Price Sheet **will not be accepted** and may result in the Bidder's Quote being deemed non-responsive." On its price sheet, contrary to Bid Solicitation Section 3.27, *State Price Sheet Instructions*, as shown on the screenshot below, Arup included an additional column entitled "Firm rate being used":

Bid Solicitation 24DPP01041						
T3103 Program Administrator-Resilience Planning Projects						
State-Supplied Price Sheet						
All Firms		Refer to Bid Solicitation Section 3.27 for Bidder Instructions. The Bidder must record its name and pricing in the yellow highlighted cells.				
Staffing Requirements Bid Solicitation Section 4.3.1						
Price Line	Description	All-Inclusive Hourly Rate Contract Year One (1)	All-Inclusive Hourly Rate Contract Year Two (2)	All-Inclusive Hourly Rate Contract Year Three (3)	All-Inclusive Hourly Rate Contract Year Four (4)	Firm rate being used
1	Contract Executive	\$ 460.00	\$ 473.80	\$ 488.01	\$ 502.65	Arup (G9)
2	Project Manager	\$ 222.07	\$ 228.73	\$ 235.59	\$ 242.66	Arup (G6)
3	Deputy Project Manager	\$ 187.17	\$ 192.79	\$ 198.57	\$ 204.53	Arup (G5)
4	Engineer III	\$ 263.31	\$ 271.21	\$ 279.34	\$ 287.73	Arup (G7)
5	Engineer II	\$ 195.00	\$ 202.80	\$ 210.91	\$ 219.35	Matrix
6	Engineer I	\$ 139.59	\$ 143.77	\$ 148.09	\$ 152.53	Arup (G3)
7	Planner III	\$ 236.00	\$ 243.08	\$ 250.37	\$ 257.88	One Architecture
8	Planner II	\$ 165.00	\$ 169.95	\$ 175.05	\$ 180.30	HGA
9	Planner I	\$ 150.00	\$ 154.50	\$ 159.14	\$ 163.91	HGA
10	Ecological Specialist III	\$ 240.00	\$ 249.60	\$ 259.58	\$ 269.97	Biohabitats
11	Geographic Information Systems Specialist I	\$ 161.79	\$ 166.65	\$ 171.65	\$ 176.79	Arup (G4)
12	Public Outreach/Community Engagement Specialist	\$ 161.79	\$ 166.65	\$ 171.65	\$ 176.79	Arup (G4)
13	Geologist/Hydrologist	\$ 263.31	\$ 271.21	\$ 279.34	\$ 287.73	Arup (G7)
14	In-Person & Virtual Translator/Interpreter	\$ 336.27	\$ 346.36	\$ 356.75	\$ 367.46	Arup (G8)

Thereafter, the remaining responsive Quotes were reviewed and evaluated in accordance with Bid Solicitation Section 8.9, *Evaluation Criteria*.

After completing its review and evaluation of the Quotes, the Bureau submitted its Recommendation Report recommending awards for the eight (8) remaining Bidders. Accordingly, on April 10, 2026, the Bureau issued the NOI advising the Bidders that it was the State's intent to award Blanket P.O.s consistent with the Recommendation Report.

On April 20, 2026, Arup wrote to the Division's Hearing Unit protesting the Bureau's determination that Arup was non-responsive for its addition of the added column in its Quote. In support of its protest point, Arup states in pertinent part:

Arup acknowledges that an additional column entitled "Firm rate being used" was included in the Revised State-Supplied Price Sheet. This column was added solely for internal transparency and cross-checking purposes and did not modify, obscure, or replace any information required by the State-Supplied Price Sheet. All required rate fields were completed exactly as provided, with no changes to values, formulas, structure, or ordering of the State-supplied pricing information.

Importantly:

- No pricing fields were altered, removed, or recalculated.
- The additional column did not provide Arup with any competitive advantage.
- All mandatory pricing information was clearly presented and fully compliant with the intent of Section 3.27.

[Protest, Page 1.]

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

To assist Bidders in completing the State-Supplied Price Sheet, the Bid Solicitation advised in part:

The Bidder must submit its pricing using the Revised State-Supplied Price Sheet (otherwise referred to as the “State-Supplied Price Sheet” throughout this document) accompanying this Bid Solicitation and located on the “Attachments” Tab. **Any additional or supplemental versions of the Revised State-Supplied Price Sheet will not be accepted and may result in the Bidder’s Quote being deemed non-responsive.**

[Bid Solicitation Section 3.27, *State Price Sheet Instructions*, emphasis added.]

The review of Arup’s submitted Quote revealed that the submitted State-Supplied Price Sheet included the additional column as a revision to the already revised State-Supplied Price Sheet. As indicated above, Bid Solicitation Section 3.27, *State Price Sheet Instructions*, prohibited the Bidder from submitting any additional supplemental versions of the State-Supplied Price Sheet. In the June 12, 2026, Optional Pre-Quote Conference, Bidders were again warned that “[t]he State-Supplied Price sheet must be completed in its entirety with **no lines added or removed, or additional language or fees referenced**”, and that “[t]he State-Supplied Price Sheet must be completed in its entirety **with no lines added or removed. Do not add additional language, assumptions, or fees on the State-Supplied Price Sheet.**” Emphasis Added.

BID SOLICITATION AT A GLANCE

- ▶ Section 8: Quote Evaluation and Award
- ▶ Section 9: Glossary
- ▶ Attachment 1: State of New Jersey Standard Terms and Conditions
- ▶ Helpful Tips & Reminders
 - ▶ Review Bid Solicitation in its entirety and submit any questions prior to the deadline including exceptions to the SSTC. Updated documents will be posted in NJSTART and should be reviewed as posted.
 - ▶ Complete all required price lines in the State Supplied Price Sheet or Quote may be deemed non-responsive. Indicate "\$0" if the cost is \$0. Do not leave any price lines blank.
 - ▶ Submit Quotes on time addressing all mandatory requirements (designated by "shall") including forms. Quotes missing mandatory requirements may be deemed non-responsive. Not submitting requested information ("should") may impact the technical evaluation score.
 - ▶ The State-Supplied Price Sheet must be completed in its entirety with no lines added or removed, or additional language or fees referenced

[Pre-Quote Conference PowerPoint Slide 6.]

PRICE SHEET PITFALLS

- ▶ Complete all required price lines on the State-Supplied Price Sheet pursuant to the Bid Solicitation instructions or Quote may be deemed non-responsive. Indicate "**no charge**" if the cost is \$0. Do not leave any price line blank.
- ▶ The State-Supplied Price Sheet must be completed in its entirety with no lines added or removed. Do not add additional language, assumptions, or fees on the State-Supplied Price Sheet.
- ▶ Do not make formatting changes to the State-Supplied Price Sheet. If the price line requires a dollar amount, don't change it to a percentage, or vice versa. If the price line includes 2 decimal places, don't change the settings to allow 4 decimals.
- ▶ Confirm that you have completed **all tabs** on the State-Supplied Price Sheet.
- ▶ Confirm you have completed the proper version of the State-Supplied Price Sheet; it may have been revised via Bid Amendment.
- ▶ Submitting a State-Supplied Price Sheet in a format other than the supplied Excel document can lead to a price sheet being deemed non-responsive when the information in a cell cannot be confirmed by the Bureau.

[Pre-Quote Conference PowerPoint Slide 9.]

Furthermore, the Hearing Unit's investigation of Arup's State-Supplied Price Sheet reveals further violations of the Bid Solicitation's Price Sheet Instructions; primarily, inserting "All Firms" in the cell for the Bidder's name on the tab labeled "Main Price Sheet (9-9)", multiple tabs of differing firm names, pricing, and additional language. Many tabs also include blank price lines, violations of Bid Solicitation Section 3.27.1, *Use of "No Charge" on the State-Supplied Price Sheet*, which states that "[a]ll price lines **must** be fill out." This is restated in PowerPoint Slide 9 as attached above. Others are entirely new sheets without the outline of the State-Supplied Price Sheet as provided. Even the Tab specifically labeled "Arup" features a blank price line (Price Line 14: Translator/Interpreter) and further removes Price Line 22: Surveyor II from the Price Sheet.

These failures on Arup's part to follow the Bid Solicitation's clear and unambiguous directions mean Arup's State-Supplied Price Sheet was subject to misinterpretation, and the State would not be certain of the price or product/service being offered by the Bidder. Bidders, Arup included, were warned multiple times that the State-Supplied Price Sheet was to be completed without revision to the lines and columns. Despite these numerous warnings Arup proceeded to improperly revise the State-Supplied Price Sheet, violating the Price Sheet instructions per Section 3.27. Despite the fact that Arup may have intended to submit a responsive State-Supplied Price Sheet for this Bid, the submitted State-Supplied Price Sheet reveals that Arup did not do so.

Arup claims these revisions were "solely for internal transparency and cross-checking purposes and did not modify, obscure, or replace any information required by the State-Supplied Price Sheet." While this may have been the case, Arup was responsible for ensuring the Quote presented to the Division was in accordance with the State-Supplied Price Sheet Instructions as laid forth in Bid Solicitation Section 3.27. The responsibility for ensuring that the Bid Solicitation instructions were read and properly followed was the responsibility of the Bidder and appropriately rests solely with the Bidder; as such the Bid Solicitation advised:

The Bidder assumes sole responsibility for the complete effort required in submitting a Quote in response to this Bid Solicitation. No special consideration will be given after Quotes are opened because of a Bidder's failure to be knowledgeable as to all of the requirements of this Bid Solicitation. The State assumes no responsibility and bears no liability for costs incurred by a Bidder in the preparation and submittal of a Quote in response to this Bid Solicitation or any pre-contract award costs incurred.

[Bid Solicitation Section 3.2, *Bidder Responsibility*.]

As noted above, in the protest, Arup admits that it did submit an improperly revised State-Supplied Price Sheet; however, Arup essentially argues that the State should ignore the fact that Arup improperly inserted information that it was warned against doing in violation of the Bid Solicitation. These arguments run contrary to the clear Bid Solicitation instructions to provide the information in the manner required for each cell on the State Supplied Price Sheet as noted above, as well as New Jersey case law.

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)). Consistent with this purpose, the New Jersey procurement law provides that "any or all bids may be rejected when the State Treasurer or the Director of the Division of Purchase and Property determines that it is in the public interest so to do." N.J.S.A. 52:34-12(a).

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 shall¹ conform to the following requirements or be subject to designation as a non-responsive proposal for non-compliance:

...

6. Include all RFP-required pricing information.

[N.J.A.C. 17:12-2.2(a), emphasis added.]

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.

This mandatory language is found in Bid Solicitation Section 3.27, *State Price Sheet Instructions*, and makes clear that:

The Bidder **must** submit its pricing using the Revised State-Supplied Price Sheet (otherwise referred to as the “State-Supplied Price Sheet” throughout this document) accompanying this Bid Solicitation and located on the “Attachments” Tab. Any additional or supplemental versions of the Revised State-Supplied Price Sheet **will not** be accepted and may result in the Bidder’s Quote being deemed non-responsive.

[Emphasis added.]

The clear language in these steps in Bid Solicitation Section 3.27 prohibited the addition of rows and columns into the Revised State-Supplied Price Sheet, along with the Glossary definition explaining the mandatory nature of “shall” and “must” requirements, makes clear that the State-Supplied Price Sheet was to be submitted without revisions to the format, with only responses to the Price Lines being acceptable.

In reviewing the Quote submitted by Arup, the Bureau recognized that Arup had failed to follow the Bid Solicitation instructions. The Hearing Unit’s independent review of the Bid Solicitation instructions for the submission of pricing information finds that the instructions were clear. The Bidder was clearly informed in the instructions that it prohibited from altering the State-Supplied Price Sheet, and that failure to follow those instructions would result in the Bidder’s Quote being deemed non-responsive and ineligible for award. Bid Solicitation Section 3.7 *State Price Sheet Instructions*. Therefore, the Bureau correctly determined that the Quote submitted by Arup was non-responsive because Arup impermissibly altered the State-Supplied Price Sheet; and therefore, Arup was not eligible for an award. This decision is in line with the Division’s primary goal of ensuring that the public bidding process allows for unfettered competition. *Meadowbrook*, *supra*, 138 N.J. at 313.

In order for Arup’s Quote to be considered responsive, Arup needed to submit all of the information required by the Bid Solicitation with its Quote. While minor irregularities can be waived pursuant to the authority vested by N.J.A.C. 17:12-2.7(d) and Bid Solicitation Section 8.1 *Right to Waive*, it is firmly established in New Jersey that material conditions contained in bidding specifications may not be waived.

¹ “Shall – Denotes that which is a mandatory requirement.” Bid Solicitation Section 9, *Glossary*.

Twp. of Hillside v. Stemin, 25 N.J. 317,324 (1957). In Meadowbrook Carting Co. v. Bor. of Island Heights, 138 N.J. 307, 315 (1994), the New Jersey Supreme Court adopted the test set forth by the court in River Vale, supra, for determining materiality. 127 N.J. Super. 207 (Law Div. 1974). “In River Vale, Judge Pressler 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 the Award of the On-Line Games Prod. and Operation Servs. Contract, Bid No.95-X-20175, 279 N.J. Super. 566, 594 (App. Div. 1995), citing River Vale, supra, 127 N.J. 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. 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.” Id. at 222.

Here, unfortunately, Arup submitted its Price Sheet in support of its Quote with information that violated the prohibitions against revisions of the State-Supplied Price Sheet as outlined in Bid Solicitation Section 3.27 for the Price Lines at issue. Despite Arup’s position, because Arup failed to follow the explicit instructions to keep the Price Sheet unaltered, the State cannot be assured that the Blanket P.O. could be performed in accordance with the specified requirements of the Bid Solicitation based on the information provided with Arup’s Quote and Price Sheet, and providing Arup with the opportunity to modify its bid documents with additional information post-Quote opening would adversely affect competitive bidding by placing Arup in a position of advantage over the other bidders, and would undermine the necessary common standard of competition. River Vale, supra, 127 N.J. at 216. Arup’s failure to follow the Price Sheet instructions with its Quote submission and as requested by the Bureau is a material deviation from the requirements of the Bid Solicitation. See N.J.A.C. 17:12-2.2(a)(6).

Based upon the findings set forth above, I find no reason to disturb the determination that the Quote submitted by Arup was non-responsive to the requirements of the Bid Solicitation. Accordingly, I sustain the April 10, 2026, Notice of Intent to Award. This is my final agency decision.

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

Cory K. Kestner
Chief Hearing Officer

c: R.Regan
W. Higgins
J. Lee