



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY

OFFICE OF THE DIRECTOR

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March 18, 2026

Via Email Only clynam@impactpowertech.com

Colleen Lynam
Impact Power Technologies LLC
800 Broadway, Suite 10
Haverhill, MA 01830

Re: I/M/O Bid Solicitation #25DPP01092 Impact Power Technologies LLC
Protest of Notice of Intent to Award
T0109 – Radio Communications Equipment and Accessories

Dear Ms. Lynam:

This final agency decision is in response to your protest application delivered via the online protest portal on behalf of Impact Power Technologies LLC (Impact Power) received by the Division of Purchase and Property's (Division) Hearing Unit on March 2, 2026 (Protest). Impact Power protests the Procurement Bureau's (Bureau) February 3, 2026, Notice of Intent to Award letter (NOI) issued for Bid Solicitation #25DPP01092 – T0109 Radio Communications Equipment and Accessories (Bid Solicitation).

By way of background, on April 21, 2025, the Bureau issued the Bid Solicitation on behalf of the Office of Information Technology (OIT). The purpose of the Bid Solicitation was to solicit Quotes for the purchase and installation of new radio communication equipment and systems, as well as additions to, upgrades of, and maintenance and support of existing radio communication equipment and systems. 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.

In accordance with Bid Solicitation Section 2.5, *Optional Pre-Quote Conference*, an optional Pre-Quote Conference was held on May 5, 2025, providing all potential Bidders with an overview of the Bid Solicitation and Quote submission procedures and requirements. Representatives from sixteen (16) potential bidding entities attended according to the Pre-Quote Conference sign-in.

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 12, 2025. Four (4) Bid Amendments were issued for this Bid Solicitation, which provided revisions to the Bid Solicitation and responses to questions received from potential Bidders:

Bid Amendment	Date Issued	Contents
1	6/19/2025	Stated that answers to the Electronic Question and Answer Period will be posted in a subsequent Bid Amendment.
2	6/30/2025	The Quote Submission Due Date extended from July 10, 2025, to August 26, 2025.
3	7/23/2025	- Answers to the first round of Electronic Question and Answer Period; - Revised the Bid Solicitation posted to NJSTART; - Revised the State-Supplied Price Sheet posted to NJSTART; and - Second Electronic Question and Answer period opened until July 30, 2025.
4	8/7/2025	Answers to the second round of Electronic Question and Answer Period.

On August 26, 2025, the Division's Proposal Review Unit (PRU) opened thirty-six (36) Quotes. The thirty-six (36) Quotes were deemed administratively complete by the PRU and released to the Bureau for further review and evaluation.

1. 22nd Century Technologies Inc (22nd Century) 2. Atlantic Communications Electronics Inc 3. Aviat U.S. Inc (Networks) 4. BK Technologies, Inc. 5. Bluum USA, Inc. 6. Business Information Systems (BIS) 7. C Squared Systems 8. Communications Specialists Inc 9. E/M Wave Inc. 10. Eastern Communications LTD 11. EF Johnson Co 12. Electronic Service Solutions Inc 13. Gold Type Business Machines Inc 14. Goosetown Enterprises Inc. 15. Impact Power Technologies LLC 16. Interaction Insight Corporation 17. Kenwood USA Corp. 18. Kova Corp	19. L3Harris Technologies 20. Let's Think Wireless LLC 21. Motorola Solutions 22. New Jersey Business Systems Inc. 23. Northeast Communications Inc. 24. Online Communications LLC 25. Philip M. Casciano Associates Inc. 26. PierCon Solutions LLC 27. Procomm Systems Inc 28. R.F. Design & Integration Inc 29. Scientel Solutions 30. Tactical Public Safety LLC 31. V-Comm L.L.C. 32. Verizon Wireless 33. WaveStar Solutions 34. Wireless Electronics 35. Xybix Systems Inc 36. Zetron Inc
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As part of the responsiveness review, the Bureau determined that the Quotes submitted by Bk Technologies, C Squared Systems, and Zetron, 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 on Pages 14, 15, 17, and 25 in the Recommendation Report dated February 6, 2026 (Recommendation Report). For the reasons more fully explained on those pages in the Recommendation Report, the Bureau determined whether each Bidder's clarification response sufficiently addressed the matter in question, and whether the Bidders met the requirements of the Bid Solicitation.

The Bureau determined that the Quotes submitted by the Bidders in the following chart were non-responsive due to non-compliance with one or more mandatory elements of the Bid Solicitation. Recommendation Report at pgs. 17-22.

1. 22 nd Century Technologies Inc.	7. Interaction Insight Corporation
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2. Atlantic Communications Electronics Inc. 3. Aviat U.S. Inc. (Networks) 4. Business Information Systems, Inc. (BIS) 5. E/M Wave Inc 6. Impact Power Technologies LLC	8. Kova Corp 9. L3Harris Technologies, Inc. 10. Verizon Wireless 11. Xybix Systems Inc. 12. WaveStar Solutions
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The Bureau found that the following Quotes met, and complied with, the mandatory requirements of the Bid Solicitation, and remained available to be evaluated and eligible for Contract award:

1. BK Technologies, Inc. 2. Bluum USA, Inc. 3. C Squared Systems 4. Communications Specialists Inc 5. Eastern Communications LTD 6. E.F. Johnson Co 7. Electronic Service Solutions, Inc. 8. Gold Type Business Machines Inc. 9. Goosetown Enterprises Inc. 10. JVCKENWOOD USA Corp. 11. Let's Think Wireless, LLC 12. Motorola Solutions, Inc. 13. New Jersey Business Systems Inc.	14. Northeast Communications Inc. 15. Online Communications LLC 16. Philip M. Casciano Associates, Inc. 17. PierCon Solutions, LLC 18. Procomm Systems Inc 19. R.F. Design & Integration Inc 20. Scientel Solutions 21. Tactical Public Safety LLC 22. V-COMM L.L.C. 23. Wireless Electronics Inc. 24. Zetron, Inc
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Thereafter, the remaining responsive Quotes were reviewed and evaluated in accordance with Bid Solicitation Section 8.9, *Evaluation Criteria*. Bid Solicitation Section 8.9, *Evaluation Criteria*, states in part:

The following criteria will be used to evaluate and score Quotes received in response to this Bid Solicitation:

- A. The Bidder's demonstration in the Quote that the Bidder understands and is able to complete the requirements of the Scope of Work as sought.

To evaluate pricing pursuant to Bid Solicitation Section 8.9.1, *Price Evaluation*, Bidders were ranked within each category they bid from highest to lowest according to the discount percentage off on the State-Supplied Price Sheet, and the highest discount prevailed for ranking purposes of a specific category in the event the Bidder bid multiple brands within a category. The Bureau considered all pricing from the Bidders in the Competitive Range to be reasonable and acceptable.

Having completed its evaluation of the Quotes received in response to the Bid Solicitation, on February 13, 2026, the Bureau issued the Notice of Intent to Award (NOI) advising all Bidders that it was the State's intent to award a Contract for each Price Line/Category number as outlined in that letter and in the Recommendation Report.

On March 2, 2026, prior to the close of the protest period, Impact Power submitted a Protest challenging the Division's determination that the Quote submitted by Impact Power was non-responsive. Specifically, Impact Power's claims that

As a battery supplier, our obligation during the warranty period (12–30 months, depending on battery chemistry) is to replace any defective battery at no charge. Once a battery reaches the end of its useful life beyond the warranty period, we offer complimentary disposal services upon request. Because IPT does not provide maintenance or on-site services of any kind, there would be no circumstances under which IPT personnel would perform services at a New Jersey location. Accordingly, Schedule A does not apply to IPT's business model, and there is no pricing associated with post-warranty maintenance services. Schedule B – Project Engineering and Site Management Similarly, IPT does not provide project engineering or site management services. Our role is limited to the supply of battery products under warranty, with replacement provided at no charge during the warranty period. Therefore, Schedule B does not apply to IPT's scope of work as a product-only supplier.

Regardless, Impact Power argues that its past performance should warrants reconsideration of the non-responsive determination and placement on the Contract.

While Impact Power 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 Bid Solicitation, the Quotes received, the Bureau's Recommendation Report, the relevant statutes, regulations, case law, and the protest submitted by Impact Power. 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 Impact Power 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)).

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 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).

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., *supra*, 138 N.J. at 315, 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, *supra*, 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).

Impact Power argues that it was wrongfully removed from consideration because it "does not provide maintenance or on-site services of any kind, there would be no circumstances under which [Impact Power] personnel would perform services at a New Jersey location." Protest Page 2. Moreover, "does not provide project engineering or site management services." Protest Page 2. As shown below, the Bureau correctly determined Impact Power was non-responsive and ineligible for award on both issues.

Here Impact Power's Price Sheet submitted in response to the Bid Solicitation included the following with respect to Schedule A and Schedule B in the tab named "Brand 13":

		Schedule A (Sub-Categories): Time and Material / Maintenance & Repair Services (Bid Solicitation Sections 4.5, 4.12, and 4.13)					
34	A		Personnel / Technical Skill Level				
35			Engineer	Technical Support	Technician	Helper	Other
36		Weekday (Hrly) Rate: Mon-Fri 8am - 5pm	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
37		Weekday (Hrly) Rate: Mon-Fri 5:01pm - 7:59am, including all	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
38		Sunday and Holidays (Hrly)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
39		Emergency Service Calls (Hrly)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
40		Hrly Post-warranty Services (Warranty expired)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
41			Project Engineering & Site Management (Bid Solicitation Section 4.9)				
42	B	Sub-Category Description:	Custom Design Work	Site Modification	System Integration		
43		Hourly Price (< Full Day):	\$0.00	\$0.00	\$0.00	\$0.00	
44		All-Inclusive Day Rate:	\$0.00	\$0.00	\$0.00	\$0.00	
45							
46		Extended Engagement (2-7 Days):	\$0.00	\$0.00	\$0.00	\$0.00	
47		Extended Engagement (8-14 Days):	\$0.00	\$0.00	\$0.00	\$0.00	
48		Extended Engagement (15-30 Days):	\$0.00	\$0.00	\$0.00	\$0.00	
49		Extended Engagement (> 30 Days):	\$0.00	\$0.00	\$0.00	\$0.00	
50		Tier-Level Volume Discount					

[Impact Power State-Supplied Price Sheet, TAB Brand 13.]

The failure to provide pricing as required in the State-Supplied Price Sheet clearly and expressly conflicts with the language in the Bid Solicitation. Specifically, Bid Solicitation Section 3.28, *State-Supplied Price Sheet Instructions, Schedule A*, the State used clear language outlining the information required for that section:

Schedule A

Bidders **shall** provide post warranty maintenance and specified Personnel/Technical skill level hourly rates (Sections 4.5, 4.12, and 4.13) in the designated yellow cells. Proposals that fail to provide pricing for this price schedule shall be deemed nonresponsive and will not be considered for an award.

[Emphasis in original.]

This language clearly requires that hourly rates be provided in the designated yellow cells, and that failing to provide pricing would deem a Quote non-responsive.

Additionally, similar language is found in Bid Solicitation Section 3.28, *State-Supplied Price Sheet Instructions, Schedule B*, outlining the information required under that Schedule:

Schedule B

Bidders **shall** provide hourly rates for Project Engineering and Site Management (Section 4.9) in the designated yellow cells. Proposals that fail to provide pricing for this price schedule shall be deemed nonresponsive and will not be considered for an award.

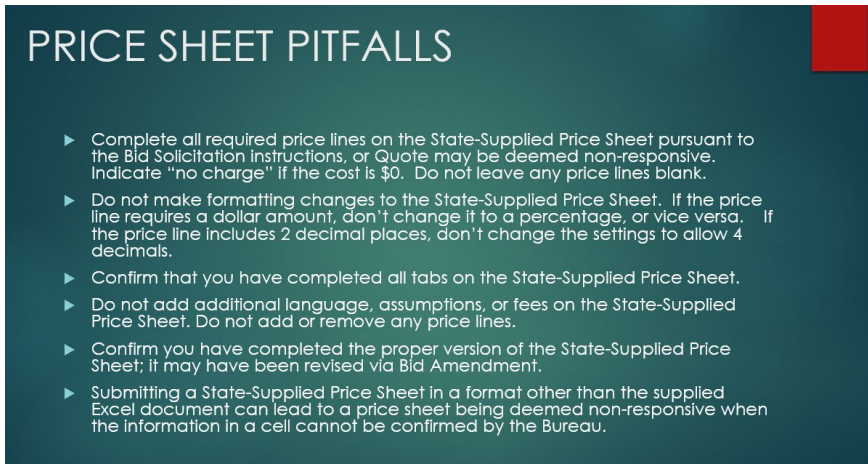
[Emphasis in original.]

Potential Bidders were permitted to submit questions regarding the terms and conditions of the Bid Solicitation by May 12, 2025. Potential Bidders were provided a second opportunity to submit questions, related to substantive changes from the first question and answer period, by July 30, 2025. Sixty-one (61) questions were received. Several questions were received regarding the application of warranty or labor post-award, but no questions were submitted related to whether a bidder could leave those schedules blank because it was not a part of their business model. If Impact does not provide services that are mandatory under the Bid Solicitation, it failed to request clarification or ask how to proceed at that time.

As part of the Bid process the Division conducted an Optional Pre-Quote Conference pursuant to Bid Solicitation Section 2.5. The purpose and intent of the Pre-Quote Conference is set forth in that section:

The purpose of the Optional Pre-Quote Conference is to address procedural questions regarding the Bid Solicitation and Bidder Quote Submission Requirements only. No substantive questions regarding the Bid Solicitation Scope of Work will be accepted or answered during the pre-Quote conference. All questions are to be submitted during the Electronic Question and Answer Period.

As part of this Pre-Quote Conference, and because the Division has been presented with this issue multiple times in the past, the following information is specifically included in the standard Pre-Quote Conference presentation:



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 lines blank.
- ▶ 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.
- ▶ Do not add additional language, assumptions, or fees on the State-Supplied Price Sheet. Do not add or remove any price lines.
- ▶ 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 – Slide Deck page #6]

The Division expressly advises and warns Bidders not to “add additional language, assumptions, or fees on the Price Sheet.” Additionally, the Division expressly advises Bidders to complete all required price lines on the State-Supplied Price Sheet. The Division includes this language knowing how the courts have addressed this issue in the past and to help Bidder’s avoid repeating the same mistakes.

Here, Impact Power’s failure to include the required information in Schedule A and Schedule B are material deviations from the requirements of the Bid Solicitation. First, the deviation deprives the State from the assurance that the contract will be performed according to the specified requirements because the Bidders cannot be accurately evaluated with contracts awarded based on costs that may be built in to other pricing, or may lead to a conflict post-award when an awarded contractor refuses to

perform a required task. Second, accepting Impact Power's Quote now when they failed to provide the required information based on their business model or prior history with the State adversely affects competitive bidding because other Bidders submitted pricing that accurately reflected the State's requirements and was not reliant on additional assumptions or past performance.

Although the State has broad discretion to select among qualified and responsive Bidders in public contracting matters, the discretion afforded to the Director, "is not limitless." See, In re Request for Proposals #17DPP00144, 454 N.J. Super. 527, 559 (App Div. 2018). "In line with the policy goal of thwarting favoritism, improvidence, extravagance, and corruption, the Division may not award a contract to a bidder whose proposal deviates materially from the [RFQ's] requirements." Ibid., quoting, Barrick v. State, 218 N.J. 247, 258-59 (2014). For that reason, the Division's governing regulations mandate stringent enforcement to maintain the equal footing of all Bidders and to ensure the integrity of the State's bidding process. Notably, "a proposal that is not...responsive to the material requirements of the [RFQ] shall not be eligible for further consideration for award of contract, and the bidder offering said proposal shall receive notice of the rejection of its proposal." N.J.A.C. 17:12-2.7(c). Therefore, the Bureau correctly deemed Impact Power's Quote as non-responsive to the requirements of the Bid Solicitation.

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 February 13, 2026, Notice of Intent to Award with respect to Impact. 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
Chief Hearing Officer

c: M. Dunn
L. Molano