



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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Acting Director

April 24, 2026

Via Electronic Mail Only to customerservice@swantonfuel.com

Jim Anderson
J Swanton Fuel Oil Co., Inc.
37 Center Ave
Atlantic Highlands, NJ 07716

Re: I/M/O Bid Solicitation #26DPP01255 J Swanton Fuel Oil Co Inc.
Protest of Rejection of Quote
T0077 – Heating Fuel Oil – Statewide

Dear Mr. Anderson:

This final agency decision is in response to your protest application on behalf of J Swanton Fuel Oil Co., Inc. (“Swanton”) received by the Division of Purchase and Property’s (“Division”) Hearing Unit on April 16, 2026 (“Protest”). In that application, Swanton protests the Proposal Review Unit’s (“PRU”) April 16, 2026, Notice of Proposal Rejection (“NPR”) of their Quote for Bid Solicitation #26DPP01255 – T0077 – Heating Fuel Oil – Statewide (“Bid Solicitation”).

By way of background, on January 13, 2026, the Division’s Procurement Bureau (“Bureau”) issued the Bid Solicitation on behalf of State Using Agencies and the State’s Intrastate Cooperative Purchasing Participants. The purpose of the Bid Solicitation was to solicit Quotes for Number 2 Heating Fuel Oil (“State”). Bid Solicitation Section 1.1, *Purpose and Intent*. It is the intent of the State to award Contracts to those responsible Bidders whose Quotes, conforming to the Bid Solicitation are most advantageous to the State of New Jersey, price and other factors considered. 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 February 24, 2026. Four (4) Bid Amendments were issued for this Bid Solicitation, which provided revisions to the Bid Solicitation, revisions to the State Supplied Price Sheet, responses to questions received from potential Bidders, and extended the Quote Submission Due Date to April 15, 2026.

On April 15, 2026, the Division’s Proposal Review Unit (“PRU”) opened thirteen (13) Quotes which were received by the submission deadline of 2:00pm Eastern Time. After conducting an initial review of the Quotes received for compliance with mandatory Quote submission requirement, the Division’s PRU forwarded twelve (12) Quotes to the Bureau for further review and evaluation consistent with the requirements of the Bid Solicitation. The Quote submitted by J Swanton Fuel Oil Co Inc. was Automatically Rejected by the PRU pursuant to the provisions of N.J.A.C. 17:12-2.2.

As set forth in the Notice of Proposal Rejection dated April 16, 2026, the PRU rejected Swanton's Quote because it was missing the Ownership Disclosure Form which is a mandatory requirement of Quote Submission. Pursuant to Bid Solicitation Section 3.13.2, *Ownership Disclosure Form*, Bidders must submit an Ownership Disclosure Form with their Quote.

On April 16, 2026, Swanton submitted a Protest of the rejection of their Quote. In the Protest, Swanton pointed to language in Bid Solicitation, Section 3.13.2, *Ownership Disclosure Form*, which states in pertinent part, "[i]n lieu of completing and submitting the paper-based form, the Bidder has the option to complete this form online in NJSTART on the 'Terms and Categories' Tab." Protest, page 1. Additionally, Swanton provided a screenshot of the "Attachments" screen from NJSTART for Swanton. This screenshot shows the various documents as well as the date and time they were uploaded. The upload date for the Ownership Disclosure Form was March 28, 2026. It should be noted that all documents included in this screenshot are checked off as being "Confidential" in the corresponding box. See below.

Download	File	Description	Size	Uploaded By	Uploaded Date	Confidential	Delete
	J SwantonFuel Oil Co Inc.pdf	Designated Insured	86,686 bytes	Toni Williams	09/20/2024 11:06:21 AM	☒	☐
	J Swanton Fuel Oil Co Inc - Exp 012726.pdf	15. Certificate of Insurance Renewal	143,827 bytes	Toni Williams	01/09/2025 01:46:27 PM	☒	☐
	J Swanton Fuel Oil - Exp 072626.pdf	16. Certificate of Insurance Renewal	38,078 bytes	Toni Williams	01/06/2026 01:34:18 PM	☒	☐
	Business Registration-6.PDF	NJ Business Registration	837,066 bytes	Jim Anderson	03/24/2026 05:22:14 PM	☒	☐
	Certificate of Employee Information Report-6.pdf	Certificate of Employee Information Report	89,377 bytes	Jim Anderson	03/24/2026 05:23:22 PM	☒	☐
	OwnershipDisclosure.pdf	Ownership Disclosure Form	198,566 bytes	Jim Anderson	03/28/2026 12:39:50 PM	☒	☐
	DisclosureofInvestmentActivitiesinIran.pdf	Disclosure of Investment Activities in Iran	156,079 bytes	Jim Anderson	03/28/2026 12:41:10 PM	☒	☐
	DisclosureofInvestigations.pdf	Disclosure of Investigations and other Actions Involving Bidder	187,490 bytes	Jim Anderson	03/28/2026 12:42:42 PM	☒	☐
	MacBridePrinciples.pdf	MacBride Principles	144,799 bytes	Jim Anderson	03/28/2026 12:47:18 PM	☒	☐
	Two Year Chapter 51.pdf	Two Year Chapter 51	920,509 bytes	Jim Anderson	03/30/2026 08:12:23 AM	☒	☐

File: No file selected.
Description:

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

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

...

4. Contain all RFP-required certifications, forms, and attachments, completed and signed as required. An RFP may designate certain forms and/or certifications that need not be included in the bidder’s proposal but that **must** be provided by a successful bidder upon request prior to an award of contract;

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

If the requirements of N.J.A.C. 17:12-2.2 are not met, a Quote must be rejected. This regulation mandates stringent enforcement to maintain the equal footing of all Bidders and to ensure the integrity of the State’s bidding process.

Pursuant to Bid Solicitation Section 3.6.2, *Ownership Disclosure Form*, “. . . the Bidder **must** disclose all 10% or greater owners by (a) completing and submitting the Ownership Disclosure Form with the Quote; (b) if the Bidder has submitted a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the Quote submission deadline for this procurement, the Using Agency may rely upon that form; . . .” Emphasis added. 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*.]

It is clear that submitting the Ownership Disclosure Form prior to Quote Opening was a requirement to be found responsive for this Bid Solicitation. In light of Swanton’s Protest and claims that they uploaded a completed, conforming Ownership Disclosure Form to their NJSTART vendor profile prior to the Quote submission deadline for this procurement, the Hearing Unit completed an independent review of the Bid Solicitation requirements, Swanton’s Quote, documents submitted by Swanton in connection with their Quote, as well as documents located in Swanton’s Vendor Profile in NJSTART. As a result of this review, it appears that the Ownership Disclosure Form for Swanton, uploaded at 12:39:50pm on March 28, 2026, was located in the Attachments tab of their Vendor Profile in NJSTART. Although not submitted

with their Quote, Swanton's Ownership Disclosure Form located within their Vendor Profile in NJSTART was submitted prior to the Quote Submission Date of April 15, 2026 and can therefore be accepted to satisfy the requirements of Bid Solicitation 3.6.2, *Ownership Disclosure Form*. It must be noted that Swanton's actions of marking their Ownership Disclosure Form (and every other uploaded document) as "Confidential" removed it from view of the PRU and the Bureau and hindered their ability to evaluate Swanton's Quote for responsiveness. Furthermore, marking these documents as "Confidential" does not shield them from public disclosure under the New Jersey Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq., or the common law right to know.

CONCLUSION

In light of the findings set forth above, I find that Swanton's Quote was conforming and they are eligible for consideration for contract award. I hereby remand Swanton's Quote to the Bureau for further evaluation and possible award.

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

CKK:CMD

c: K. Thomas
B. Billings
J. Celia