



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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June 5, 2026

Via Electronic Mail Only to cmcba.ed@gmail.com

Pamela Kaithern
Cape Mediation Services, Inc
PO Box 662
Cape May Courthouse, NJ 08210

Re: I/M/O Bid Solicitation #26DPP01257 Cape Mediation Services, Inc
Protest of Notice of Proposal Rejection
T3107 Chapter 32 Arbitration Services - DOBI

Dear Ms. Kaithern:

This final agency decision is in response to the protest application dated May 28, 2026 ("Protest"), submitted by Cape Mediation Services, Inc ("Cape"). In that correspondence, Cape protests the Notice of Proposal Rejection issued on May 28, 2026, by the Division's Proposal Review Unit ("PRU") for Bid Solicitation #26DPP01257 – T3107 Chapter 32 Arbitration Services – DOBI ("Bid Solicitation"). The record of this procurement reveals that the Quote submitted by Cape was deemed non-responsive on the grounds of "Missing pricing information". In their Protest, Cape stated that "Required documentation was included with the Bid, but the State supplied Price Sheet did not attach." Protest, page 1. Cape attached to their Protest a completed State-Supplied Price Sheet.

By way of background, on March 17, 2026, the Division's Procurement Bureau ("Bureau") issued the Bid Solicitation on behalf of the Department of Banking and Insurance. The purpose of the Bid Solicitation was to solicit "Quotes from experienced Arbitration entities to provide Arbitration of provider payment disputes with Carriers pursuant to the Out-of-Network Consumer Protection, Transparency, Cost Containment and Accountability Act ("ONET"), P.L. 2019, c.32." Bid Solicitation Sec. 1.1, *Purpose and Intent and Background*. "It is the intent of the State of New Jersey (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.* Two Bid Amendments were posted which extended the Quote opening date and provided answers to questions submitted pursuant to Bid Solicitation Section 2.1, *Electronic Question and Answer Period*.

On May 28, 2026, the PRU opened five (5) 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, it was determined that Cape's Quote was non-responsive for failing to submit the State-Supplied Price Sheet, as required in Bid Solicitation Section 3.27 *State-Supplied Price Sheet Instructions*.

Although Cape 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 Notice of Proposal Rejection, the relevant statutes, regulations, case law, and the protest submitted by Cape. 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 Cape on the written record. As such, an in-person hearing is not warranted. I set forth herein the Division’s Final Agency Decision.

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.

The subject procurement was comprised of the Bid Solicitation, other documents and mandatory forms which were specifically addressed in Bid Solicitation Section 3.0, *Quote Submission Requirements*, which states in pertinent part that:

The Bidder must submit its pricing using the State-Supplied Price sheet accompanying this Bid Solicitation and located on the “Attachments” Tab. **The Bidder MUST provide unit pricing for all price lines.** Each Bidder is required to hold its pricing firm through the issuance of the Contract.

[Bid Solicitation Section 3.27, emphasis in the original 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, *DEFINITIONS*.]

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, *DEFINITIONS*.]

Cape failed to submit a State-Supplied Price Sheet with their initial Quote. Bid Solicitation Section 3.27, *State-Supplied Price Sheet Instructions*, requires that Bidders submit a completed Price Sheet with the initial Quote, and that the failure to submit the same may result in the rejection of a Bidder’s Quote. With their Protest, Cape submitted a State-Supplied Price Sheet with the pricing information included. By failing to submit a completed price sheet, Cape did not comply with a mandatory condition of the Bid Solicitation because it submitted a Quote without the State-Supplied Price Sheet. Cape was non-compliant with the terms in Bid Solicitation Section 3.27, and as such, Cape’s Quote contained a non-waivable deviation rendering the Quote non-responsive. Twp. of River Vale v. Longo Constr. Co., 127 N.J. Super. 207, 222 (Law Div. 1974).

Included with their Protest, Cape provided a completed State-Supplied Price Sheet which cannot be considered post Quote opening as this information was required to be submitted by Cape prior to the date that Quotes were due.

Based on the foregoing, Cape was non-compliant with the terms in Bid Solicitation Section 3.27. As such, Cape’s Quote contained a non-waivable deviation rendering the Quote non-responsive. Twp. of River Vale v. Longo Constr. Co., 127 N.J. Super. 207, 222 (Law Div. 1974).

In light of the findings set forth above, I sustain the conclusions in the Bureau’s May 28, 2026, Proposal Rejection Letter, that Capes Quote was non-responsive for failing to provide a completed State-Supplied Price Sheet as required by the Bid Solicitation and uphold the May 28, 2026, Notice of Proposal Rejection.

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.
Chief Hearing Officer

CKK:CMD

- c. Proposal Review Unit
- R. Regan
- T. Fanikos
- W. Higgins
- E. Rutkowski