



State of New Jersey

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

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January 30, 2026

Via Electronic Mail Only to danielle.lyle@blackbox.com

Danielle Lyle
Norstan Communications, Inc. d/b/a Black Box Network Services
8210 Court House Boulevard
Suite 200
Inver Grove Heights, MN 55077

Re: I/M/O Bid Solicitation #25DPP01122 Norstan Communications, Inc. d/b/a Black Box Network Services
Protest of Notice of Intent to Award
T1466 – Video Teleconferencing Equipment & Services

Dear Ms. Lyle:

This final agency decision is in response to the protest application dated January 27, 2026 (“Protest”), submitted by Norstan Communications, Inc. d/b/a Black Box Network Services (“Black Box”) and received by the Division of Purchase and Property’s (“Division”) Hearing Unit. In that correspondence, Black Box protests the Notice of Intent to Award dated January 12, 2026, by the Division’s Procurement Bureau (“Bureau”) for Bid Solicitation #25DPP01122 – Video Teleconferencing Equipment & Services. Bid Solicitation. The record of this procurement reveals that the Quote submitted by Black Box was deemed non-responsive as set forth in the Recommendation Report dated January 9, 2026 (“Recommendation Report”) for including with its Quote a statement that “Pricing and discounts may fluctuate based upon the project size and scope” which is contrary to the requirements of the Bid Solicitation which requires Bidders to submit a firm fixed price on the State Supplied Price Sheet (“SSPS”). In their Protest, Black Box states that their statement on the SSPS was included to “suggest they are minimum (firm-fixed) discounts. Should we have the opportunity to provide an even greater discount, we would gladly extend it to the State; we did not Forsee this to cause a negative impact or outcome to the reception of our response”. Protest, page 1, emphasis in the original.

By way of background, on March 7, 2025, the Division’s Procurement Bureau (“Bureau”) issued the Bid Solicitation on behalf of the New Jersey Office of Information Technology (“OIT”). The purpose of the Bid Solicitation was to solicit “Quotes for the purchase, installation and maintenance of premises-based equipment that can be used to build conference room and desktop Video Conferencing (VC) systems.” Bid Solicitation Sec. 1.1, *Purpose and Intent*. “It is the intent of the State of New Jersey (State) to award Contract(s) to those responsible Bidder(s) whose Quote(s), conforming to this Bid Solicitation are 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 March 25, 2025. A second Electronic Question and Answer period was available to all potential Bidders until 2:00 P.M. Eastern Time on August 29, 2025. A total of 187 questions were received and answered across both periods. Six (6) 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 Proposal Review Unit (“PRU”) opened seventeen (17) Quotes. After conducting an initial review of the Quotes received for compliance with mandatory Quote submission requirements, all Quotes were sent to the Bureau for further evaluation.

On or about January 12, 2026, the Bureau sent a Notice of Intent to Award and Recommendation Report to Black Box. On January 27, 2026, prior to the close of the protest period, Black Box submitted a Protest alleging that the following:

The State Supplied Price Sheet submitted in our response indicates firm-fixed discount offerings for which we intend to honor. The inclusive note was not presented to insinuate any decrease of the discount percentages, yet to suggest they are minimum (firm-fixed) discounts. Should we have the opportunity to provide an even greater discount, we would gladly extend it to the State; we did not foresee this to cause a negative impact or outcome to the reception of our response.

For clarification purposes and for recognition of compliancy and eligibility, we have removed the additional language along with any other abbreviations and/or acronyms in hopes to clearly convey the discounting structure we are offering the State.

[Protest, page 1].

With their Protest, Black Box submitted a copy of the NOI, Recommendation Report, and the SSPS they submitted with their Quote. Additionally, Black Box submitted a new SSPS with changes to the information they previously submitted in the columns titled “Percent (%) Discount Maintenance”, “Overtime Hourly Rate”, “Weekend Hourly Rate”, “Holiday Hourly Rate”, and without the language “NOTE: Pricing and discounts may fluctuate based upon the project size and scope” which was included in the SSPS submitted with their Quote.

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

DISCUSSION

Pursuant to Bid Solicitation Section 3.29, *State-Supplied Price Sheet Instructions*, the SSPS required Bidders to “submit its pricing using the State-Supplied Price Sheet accompanying this Bid

Solicitation and located on the ‘Attachments’ Tab.” Bid Solicitation Section 3.29, *State-Supplied Price Sheet Instructions*, states that “Bidders must indicate their percent discount on the accompanying yellow cell for any and all brands offered in lines 1a-2d, including proposed maintenance.” That same Bid Solicitation section requires that “[b]idders must provide their hourly rate, overtime hourly rate, weekend hourly rate and holiday hourly rate in the yellow cells next to the corresponding Labor Category”.

Finally, complementary language can be found throughout the Bid Solicitation’s terms that pricing must be held firm through both the pre-award period, and after contract award. During the pre-award period, Bid Solicitation Section 3.29, *State-Supplied Price Sheet Instructions* stating that “[e]ach Bidder is required to hold its pricing firm through the issuance of the Contract”, and Bid Solicitation Section 3.17, *Price List And/Or Catalog*, that “[e]ach Bidder shall hold its pricing firm until Contract award”. During the post-award period, Bid Solicitation Section 4.19, *Price*, additionally states that “[t]he discount (%) quoted for all video conferencing equipment shall be firm for the period of the Contract”, and New Jersey State Standard Term and Condition Section 6.1, *Price Fluctuation During Contract*, states “all prices quoted shall be firm through issuance of contract or purchase order and shall not be subject to increase during the period of the contract”.

Black Box provided a Quote in which they bid on sixteen (16) price lines. They did not provide an amount in the column titled “Percent (%) Discount Maintenance for any of the sixteen (16) price lines, instead listing “N/A” or “TBD” in each cell. Black Box also failed to provide an Overtime Hourly Rate, Weekend Hourly Rate, and Holiday Hourly Rate for the Labor Categories of Project Manager, Technical Engineer (AV ENGINEER), and Trainer (AV ENGINEER). Finally, at the bottom of their SSPS they included “NOTE: Pricing and discounts may fluctuate based upon the project size and scope.” This additional language by Black Box, that prices “may fluctuate”, is an affirmative statement that Black Box was not holding their pricing firm.

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:

(c) Proposals shall be evaluated by the Division for compliance with the provisions of N.J.A.C. 17:12-2.2 and by the evaluation committee or the assigned division staff member for responsiveness to the material requirements of the RFP. A proposal that is not compliance with the provisions of N.J.A.C. 17:12-2.2 or responsive to the material requirements of the RFP shall not be eligible for further consideration for award of contract . . .

[N.J.A.C. 17:12-2.7(c).]

If the requirements of N.J.A.C. 17:12-2.7 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, mandatory forms, and information bidders were required to submit with their Quote which were specifically addressed in Bid Solicitation Section 3.0, *Quote Submission Requirements*.

Bid Solicitation Section 3.29, *State-Supplied Price Sheet Instructions*, states that

Bidders **must** indicate their percent discount in the accompanying yellow cell for any and all brands offered in lines 1a-2d, including proposed maintenance.

[Emphasis added.]

That section additionally indicates that

Bidders **must** provide their hourly rate, overtime hourly rate, weekend hourly rate and holiday hourly rate in the yellow cells next to the corresponding Labor Category they are bidding on.

[Emphasis added.]

Bid Solicitation Section 3.29, *State-Supplied Price Sheet Instructions*, advises bidders that they are “required to hold [their] pricing firm through the issuance of the Contract.” That language is found in Bid Solicitation Section 3.17, *Price List And/Or Catalog*, and reiterated in Bid Solicitation Section 4.19, *Price*.

Bid Solicitation Section 3.17 *Price List And/Or Catalog*, states that

Each Bidder **shall** hold its pricing firm until Contract award.

[Emphasis added.]

Bid Solicitation Section 3.29, *State-Supplied Price Sheet Instructions* also states that

Each Bidder **shall** hold its pricing firm until Contract award.

[Emphasis added.]

Finally, Bid Solicitation Section 4.19, *Price* states that

The discount (%) quoted for all video conferencing equipment **shall** be firm for the period of the Contract

[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*.]

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 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).

Black Box failed to provide pricing for the Percent (%) Discount Maintenance column on the SSPS as well as Overtime Hourly Rate, Weekend Hourly Rate, and Holiday Hourly Rate for the Project Manager, Technical Engineer, and Trainer Labor Categories as required pursuant to Bid Solicitation Section 3.29, *State-Supplied Price Sheet Instructions*. Black Box added language to their SSPS which affirmatively stated that their prices were not firm while they were required to hold their pricing firm through issuance of Contract award pursuant to Bid Solicitation Sections 3.17 *Price Lista And/Or Catalog*; 3.29, *State-Supplied Price Sheet Instructions*; 4.19, *Price*; and SSTC Section 6.1.

By failing to submit their pricing information for the Percent (%) Discount Maintenance and the Hourly Rates for various Labor Categories as required in Bid Solicitation Section 3.29, and by not agreeing to hold their pricing firm throughout the Contract award as required in Bid Solicitation Sections 3.17, 3.29 and 4.19, and SSTC Section 6.1, Black Box did not comply with a mandatory condition of the Bid Solicitation. Black Box was non-compliant with the terms in numerous sections of the Bid Solicitation, and as such, Black Box’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).

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).

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).

Here, the State determined that the Quote submitted by Black Box contained a material deviation from the requirements of the Bid Solicitation rendering the Quote non-responsive. The question before me is whether Black Box’s modified pricing term was a material deviation rendering the Quote non-responsive or if the modified term could have been waived. To be deemed non-responsive, Black Box’s Quote would have had to materially deviate from the requirements of the Bid Solicitation such that the State would have no assurances that the Contract would be performed consistent with the requirements of the Bid Solicitation. As indicated above, the State could not be assured that the Contract would be performed consistent with the requirements of the Bid Solicitation because the State could not be assured that Black Box would not demand a different pricing term based on the statement on its SSPS.

In their Protest, Black Box stated that

The State Supplied Price Sheet submitted in our response indicates firm-fixed discount offerings for which we intend to honor. The inclusive note was not presented to insinuate any decrease of the discount percentages, yet to suggest they are minimum (firm-fixed) discounts. Should we have the opportunity to provide an even greater discount, we would gladly extend it to the State; we did not foresee this to cause a negative impact or outcome to the reception of our response.

For clarification purposes and for recognition of compliancy and eligibility, we have removed the additional language along with any other abbreviations and/or acronyms in hopes to clearly convey the discounting structure we are offering the State.

Nothing in their statement on the SSPS they submitted with their Quote indicates that these discounts are “minimum”. In fact, Black Box’s statement that discounts can fluctuate means that discounts could become less than what Black Box bid in their Quote.

Black Box included a new SSPS with their Protest which removed the language regarding the price fluctuation. It should also be noted that the SSPS submitted with their Protest also included information in the Percent (%) Discount Maintenance and in the Overtime Hourly Rate, Weekend Hourly Rate, Holiday Hourly Rate cells for the Labor Categories Project Manager; Technical Engineer; and Trainer that was previously missing and the lack of which would also render their Quote non-responsive.

With respect to Black Box's submission of a new SSPS with their Protest, allowing them to do so now, 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. Here, the Division cannot accept Black Box's providing a new SSPS after Quote opening, as doing so is 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 Black Box's Quote to proceed to award in light of their failure to provide the information required pursuant to Bid Solicitation Section 3.25 would place Black Box in a superior position among bidders under this Bid Solicitation.

CONCLUSION

Based upon the findings set forth above, I find no reason to disturb the determination that the Quote submitted by Black Box was non-responsive to the requirements of the Bid Solicitation. Accordingly, I sustain the January 12, 2026, 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. M. Dunn
J. Pastuzyn
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