



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
PROCUREMENT BUREAU
33 WEST STATE STREET
P. O. BOX 230
TRENTON, NEW JERSEY 08625-0230
<https://www.njstart.gov>

MIKIE SHERRILL
Governor

AARON BINDER
State Treasurer

DR. DALE G. CALDWELL
Lt. Governor

AMY F. DAVIS, ESQ.
Acting Director

April 17, 2026

Via Electronic Mail Only to fmpezzolla@frankstruckcenter.com

Frank M. Pezzolla
Frank's Truck Center Inc.
325 Orient Way PO Box 503
Lyndhurst, NJ 07071

Re: I/M/O Bid Solicitation #26DPP01249 Frank's Truck Center Inc.
Protest of Notice of Proposal Rejection
T3133 Large Bucket Truck, 37,000 LB. GVWR Cab & Chassis with Utility Body & Access -
REBID

Dear Mr. Pezzolla:

This final agency decision is in response to the protest dated April 14, 2026 ("Protest"), submitted by Frank's Truck Center Inc. ("FTC") and received by the Division of Purchase and Property's ("Division") Hearing Unit. In that correspondence, FTC protests the Notice of Intent to Cancel the Bid Solicitation issued on March 30, 2026, by the Division's Procurement Bureau ("Bureau") for Bid Solicitation #26DPP01249 – T3133 Large Bucket Truck, 37,000 LB. GVWR Cab & Chassis with Utility Body, Ariel Lift and Accessories - REBID ("Bid Solicitation"). The record of this procurement reveals that the Quote submitted by FTC was deemed non-responsive on the grounds that FTC inserted multiple prices for Price Line 8. In their Protest, FTC stated "a firm, fixed pricing structure was indeed provided in full compliance with the intent of the solicitation. The pricinig submitted reflects the fundamental distinction between two separate and independent components of the bid: the chassis and the body." Protest, page 1. Additionally, FTC stated that a separate manual was necessary for each component and due to this "structure, the inclusion of separate, firm, fixed prices for manuals associated with the chassis and the body was both logical and necessary." Protest, page 2. Finally, FTC argues that providing a single combined price for Price Line 8 would "limit the State's ability to request or evaluate manuals for individual components independently, which would be inconsistent with the segmented pricing framework established throughout the solicitation." Protest page 2.

By way of background, on December 12, 2025, the Bureau issued the Bid Solicitation on behalf of the New Jersey Department of Transportation ("NJDOT"), Statewide Agencies, and Cooperative Purchasing Participants. The purpose of the Bid Solicitation was to "solicit Quotes for a Large Bucket Truck, 37,000 LB. GVWR Heavy Duty Truck Cab and Chasis, with Utility Body, Aerial Lift and Accessories." Bid Solicitation Sec. 1.1, *Purpose, and Intent, and Background*. "It is the intent of the State of New Jersey (State) to award Contracts to those responsible Bidders whose Quotes, 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.* On January 12, 2026 Bid Amendment 1 was posted to NJSTART which provided

answers to questions posed through the electronic question and answer process as outlined in Bid Solicitation Section 2.1, *Electronic Question and Answer Period*. This Bid Amendment also changed the Quote Opening date to February 13, 2026. A Revised Bid Solicitation was also uploaded to NJSTART on January 12, 2026. The original State-Supplied Price Sheet which was available as of December 12, 2025 was not changed or updated.

On February 13, 2026, the Bureau's Proposal Review Unit ("PRU") opened three (3) 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 Gabrielli Kenworth of NJ's Quote was non-responsive for failing to submit pricing on the State-Supplied Price Sheet, as required in Bid Solicitation Section 3.36. The remaining two Quotes were released to the Bureau for further evaluation.

On or about March 30, 2026, the Bureau sent a Notice of Intent to Cancel letter dated March 30, 2026, and Recommendation Report dated March 24, 2026 ("Recommendation Report") to FTC. On April 14, 2026, prior to the close of the protest period, FTC submitted a Protest alleging that the pricing they provided in their Quote was "in full compliance with the intent of the solicitation." Protest, page 1. FTC further argues that submitting separate pricing for the body and chassis on Price Line 8 "was both logical and necessary", Protest, page 2, and furthermore by submitting the pricing separately FTC has afforded the State the opportunity to "request or evaluate manuals for individual components independently". Protest, page 2.

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

Bid Solicitation Section 3.36, *State-Supplied Price Sheet Instructions*, informs bidders that they "must bid on all Price Lines 1 through 10 within the group in order for its Quote to be considered responsive. If a Bidder does not bid on all Price Lines 1 through 10 within the group, its Quote shall be considered non-responsive."

Bid Solicitation Section 3.36 *State-Supplied Price Sheet Instructions* Step 4 states:

Step 4 – For Price Lines 1, 3, 5, 7, 8, and 9; The Bidder shall insert a firm, fixed price in US dollars in the field titled “Unit Price” on the State-Supplied Price Sheet. If a Bidder leaves the “Unit Price” field blank, its Quote shall be deemed non-responsive.

As stated in the Recommendation Report, FTC did not insert a firm, fixed price in US Dollars for Price Line 8 on their State Supplied Price Sheet (“SSPS”) but rather inserted two (2) prices in Column E “Unit Price”; one for the body and one for the chassis. It should be noted that for Price Line 10 FTC inserted two (2) prices in Column E “Unit Price” (one for the body and one for the chassis) as well which also would render FTC’s Quote non-responsive.

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*.]

During the initial responsive review of a Quote, 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). Here, FTC did not submit “a firm, fixed price” as required by Bid Solicitation Section 3.36 (emphasis added) for Price Lines 8 or 10 on the SSPS, rather FTC decided they would provide two different prices, despite the fact that the Bid Solicitation clearly required a single price for Price Lines 8 and 10. FTC had an opportunity to ask questions regarding the SSPS directions during the eQ&A process if they were unclear on the instructions or to inquire if the State would accept separate pricing for the body and the chassis on Price Lines 8 and 10.

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).

By failing to submit their pricing information in the format required in Bid Solicitation Section 3.36, FTC did not comply with a mandatory condition of the Bid Solicitation. FTC was non-compliant with the terms in Bid Solicitation Section 3.36, and as such, Sterling’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). It is not for FTC to determine whether a requirement under a bid solicitation is material or not, and how pricing should be provided. If bidders could determine what is and is not material in a bid solicitation there would be no consistency in the bidding process and no way for the Bureau to evaluate all bidders using a common criterion. Whether or not a requirement in this Bid Solicitation is material is a matter for the Division to determine.

Potential Bidders were permitted to submit questions regarding the Bid Solicitation’s terms and conditions by January 8, 2026. Ten (10) questions were received in total, and no questions were received regarding the ability to modify the Bid Solicitation’s requirements. If FTC believed it needed to provide its pricing in some alternative format, either to meet its individual needs or because industry practices utilize a different methodology, then FTC should’ve submitted a question on the topic prior to Quote opening when such questions or changes could be contemplated.

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.

Not submitting a single firm, fixed price on two mandatory Price Lines is a non-waivable deviation under River Vale. Allowing FTC’s Quote to proceed to award in light of their failure to provide the information required pursuant to Bid Solicitation Section 3.36 would place FTC a superior position among bidders under this Bid Solicitation.

CONCLUSION

In light of the findings set forth above, I find no reason to disturb the determination that the Quote submitted by FTC was non-responsive to the requirements of the Bid Solicitation and uphold the March 30, 2026, Notice of Intent to Cancel the Bid Solicitation.

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. K. Thomas
B. Birchmeier
G. Longmuir