



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR
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July 31, 2019

Via Electronic Mail [kdiperi@malouf.com] and USPS Regular Mail

Richard Malouf, President
Keith DiPeri, Parts Director
Malouf Chevrolet Cadillac
2210 US Highway 1
North Brunswick, New Jersey 08902

Re: I/M/O Bid Solicitation #: 19DPP00280 Malouf Chevrolet Cadillac
Protest of Notice of Intent to Award
Bid Solicitation Title: T2760 OEM Automotive Parts and Accessories for Light Duty Vehicles
Class 4 or Lower.

Dear Mr. Malouf and Mr. DiPeri:

This letter is in response to your email dated May 14, 2019 on behalf of Malouf Chevrolet Cadillac (Malouf Chevrolet) to the Division of Purchase and Property's (Division) Hearing Unit, protesting the Notice of Intent Award (NOI) issued by the Division's Procurement Bureau (Bureau) for Bid Solicitation #19DPP00280: T2760 OEM Automotive Parts and Accessories for Light Duty Vehicles Class 4 or Lower (Bid Solicitation). Malouf Chevrolet protests the NOI questioning why it was "not awarded any position with the state when we were the lowest price and fastest delivery times and have been a loyal state contract holder for over 10 years." Malouf Chevrolet's May 14, 2019 email.

By way of background, on October 18, 2018, the Bureau issued a Bid Solicitation on behalf of the State of New Jersey, Department of the Treasury, Bureau of Transportation Services to solicit Quotes from qualified Vendors {Bidders} for OEM Automotive Parts and Accessories for Light Duty Vehicles, for the following manufacturer's brands: General Motors, Chevrolet, Ford, Dodge, Chrysler, Toyota, Nissan, Isuzu and Honda. Bid Solicitation § 1.1 *Purpose and Intent*. The State intends to award four Master Blanket Purchase Orders (Blanket P.O.s) for each brand/price line for each region of the State. *Ibid*. The intent of this Bid Solicitation was to award Blanket P.O.s to those responsible Vendors {Bidders} whose Quotes, conforming to this Bid Solicitation are most advantageous to the State, price and other factors considered. *Ibid*.

Importantly, the Bid Solicitation advised all potential Vendors {Bidders} that significant changes had been made to the current specifications from the prior procurement. In part:

The current Bid Solicitation requires Vendors {Bidders} to provide a percentage discount or markup based on the brand manufacturer's latest retail price list. The State will not accept any other price list types, such as wholesale, jobber, invoice, etc. A Vendor's {Bidder's} offering of a

manufacturers price list other than the manufacturers latest retail price list on any given price line item will render its Quote non-responsive for that price line item.

[Bid Solicitation Section 1.2.2 *Significant Bid Solicitation Changes.*]

Further, Bid Solicitation Section 4.4.5.2 *State Supplied Price Sheet Instructions*, which provided specific detailed instructions to the potential Vendors {Bidders} on how to complete the State Supplied Price Sheet, provided in part:

- Step 3 – The Vendor {Bidder} shall insert a firm, fixed % discount or markup off of the manufacturer's latest retail price list, by entering the percentage discount or markup bid in the "% Discount/Markup" column on each price line for which a Quote is submitted on the State-Supplied Price Sheet. A Vendor's {Bidder's} entry in the "% Discount/Markup" column shall be considered a percentage (%). For example, entry of "50" shall be considered "50%" and that of "0.50" shall be considered "0.50%".

Vendors {Bidders} must provide a percentage discount or markup based on the brand manufacturer's latest retail price list. The State will not accept any other price list types, such as wholesale, jobber, invoice, etc. A Vendor's {Bidder's} offering of a manufacturers price list other than the manufacturers latest retail price list on any given price line item will render its Quote non-responsive for that price line item.

The State will accept up to two (2) decimal places to the right of the decimal point. Percentages may be offered on the State-Supplied Price Sheet up to two (2) decimal places to the right of the decimal point. Price Sheet formatting will automatically round percentages containing more than two (2) decimal places to the right of the decimal point so as not to exceed this limit.

The Vendor {Bidder} is permitted to bid a % mark-up (by entering "+5%" or "5% mark-up", for example) on the manufacturer's latest retail price list in the "% Discount/Markup" column on each price line.

If a Vendor {Bidder} leaves the "% Discount/Markup" column blank on any price line, it shall be considered that the Vendor {Bidder} provided no Quote for that price line item.

Multiple or series or range of discounts or fixed price (firm dollar amount) on any price line will not be acceptable, and will result in rejection of the Quote for that price line only.

The State will consider a Vendor's {Bidder's} volume discounts for ordering; however, such discounts will not be factored in to the evaluation of the Quote. Volume discounts should be offered on the Vendor's {Bidders} letterhead and must be provided with the Quote.

[Emphasis added.]

Moreover, the State Supplied Price Sheet, alerted Vendors {Bidders} that the percentage discount or markup would be applied to the brand manufacturer’s latest retail price list.

Trenton, NJ 08625							
Vendor (Bidder):		Cash Discount for Expedited Payment (i.e. 2% 10 Days, Net 30 Days) (Refer to Section 4.4.5.6)					
STATE-SUPPLIED PRICE SHEET - OEM AUTOMOTIVE PARTS AND ACCESSORIES FOR LIGHT DUTY VEHICLES (CLASS 4 OR LOWER, 15,000 LB. GVWR OR LESS)							
T-2760 (19DPP00280)							
Line Item	Item Description (Brands)	% Discount/Markup	Region Served			Delivery	
			North	Central	South	Stocked Delivery	Non-Stocked Delivery
1	General Motors						
2	Chevrolet						
3	Ford						
4	Dodge						
5	Chrysler						
6	Toyota						
7	Nissan						
8	Isuzu						
9	Honda						

Notes:

- Vendors (Bidders) shall enter an "X" in the "Region Served" column under the subheadings "North", "Central" or "South", to indicate which region(s) the percentage discount or markup applies. If a Vendor (Bidder) is bidding for all three regions, North, Central and South, the Vendor (Bidder) shall insert an "X" in the North, Central and South columns on the State-Supplied Price Sheet. If the Vendor (Bidder) does not insert an "X" in any of the North, Central or South columns, the Quote may be deemed non-responsive for that price line item.
- Vendors (Bidders) must provide a percentage discount or markup based on the brand manufacturer's latest retail price list. The State will not accept any other price list types, such as wholesale, jobber, invoice, etc. A Vendor's (Bidder's) offering of a manufacturer's price list other than the manufacturer's latest retail price list on any given price line item will render its Quote non-responsive for that price line item.

On November 30, 2018, the Bureau posted Bid Amendment #1, providing answers to questions received from potential Vendors {Bidders} along with a revised Bid Solicitation. In the revised Bid Solicitation, the Bureau answered two (2) questions (Questions #1 and #3) from potential Vendors {Bidders} related to the State-Supplied Price Sheet, specifically reciting Bid Solicitation Section 4.4.5.2. In its answers, the Bureau reminded the Vendors {Bidders} that they were to “provide a percentage discount or markup based on the brand manufacturer’s latest retail price list.”

#	Bid Solicitation Section Reference	Question (Bolted) and Answer
1	<p>Section 1.2.1 Significant Bid Solicitation Changes Paragraph 3</p> <p>Section 4.4.5.2 State-Supplied Price Sheet Instructions Paragraph 6</p>	<p>Where would a vendor list exceptions on discount percentage for items that pertain to certain automotive parts in this bid? The State will not accept any exceptions to the discount percentages.</p> <p>Bid Solicitation Section 4.4.5.2 states: "Multiple or series or range of discounts or fixed price (firm dollar amount) on any price line will not be acceptable, and will result in rejection of the Quote for that price line only."</p> <p>Bid Solicitation Section 4.4.5.2 further states: "The Vendor (Bidder) shall insert a firm, fixed % discount or markup off of the manufacturer's latest retail price list, by entering the percentage discount or markup bid in the "% Discount/Markup" column on each price line for which a Quote is submitted on the State-Supplied Price Sheet. A Vendor's (Bidder's) entry in the "% Discount/Markup" column shall be considered a percentage (%). For example, entry of "50" shall be considered "50%" and that of "0.50" shall be considered "0.50%".</p> <p>Vendors (Bidders) must provide a percentage discount or markup based on the brand manufacturer's latest retail price list. The State will not accept any other price list types, such as wholesale, jobber, invoice, etc. A Vendor's (Bidder's) offering of a manufacturer's price list other than the manufacturer's latest retail price list on any given price line item will render its Quote non-responsive for that price line item."</p>
3	<p>Section 4.4.5. State-Supplied Price Sheet</p> <p>Section 4.4.5.2 State-Supplied Price Sheet Instructions</p>	<p>The state supplied price sheet that is the reference, is this in regards to our pricing discounts and markups or the manufacturers price sheet?</p> <p>The Vendor (Bidder) must submit its percentage discount or markup off of the manufacturer's latest retail price list utilizing the State-Supplied Price Sheet accompanying the Bid Solicitation and located on the "Attachments" Tab in NJSTART.</p> <p>Please refer to Section 4.4.5.2 <i>State-Supplied Price Sheet Instructions</i> for further details on how to fill out the State-Supplied Price Sheet.</p>

On December 19, 2018, the Division's Proposal Review Unit opened eighteen Quotes submitted through the State's **NJSTART** eProcurement system and received by the submission deadline of 2:00 p.m. eastern time.

After conducting a preliminary review of the Quotes received, those Quotes which conformed to the administrative requirements for Quote submission were forwarded to the Bureau for review and evaluation consistent with the requirements of Bid Solicitation § 6.6 *Evaluation Criteria*.

The following criteria will be used to evaluate Quotes received in response to this Bid Solicitation. The criteria are not necessarily listed in order of importance:

- a. Price – highest percentage discount or lowest percentage markup bid based on the brand manufacturer's latest retail price list for the brand bid
- b. Experience of the Vendor {Bidder}
- c. The Vendor's {Bidder's} documented past performance under similar Blanket P.O.s, including, but not limited to, the Division's Vendor {Contractor} performance database.

After the completing the review and evaluation of all Quotes received, on May 3, 2019, the Bureau prepared a Recommendation Report which recommended that Blanket P.O.s be awarded to the following Vendors {Bidders}: Beyer Bros. Corp., Beyer Ford LLC, Beyer of Morristown LLC, Bob Novick Chevrolet, Chapman Ford Sales, Inc., Ciocca Chevrolet of Princeton, DFFLM LC t/a Ditschman Flemington Ford FBO NJ Parts of Flemington, Fred Beans Parts Inc., Freehold Ford Inc., Gentilini Ford,

Malouf Ford Lincoln, and McGuire Chevrolet Cadillac. On May 7, 2019, the Bureau issued to the NOI advising all Vendors {Bidders} of intended Blanket P.O. awards.

On May 14, 2019, Malouf Chevrolet sent the Division a letter protesting the intended Blanket P.O. award. Specifically, Malouf Chevrolet asserts:

We are writing this in protest of the results sent to us for the bid solicitation of 19DPP00280 OEM Automotive Parts and Accessories for Light Duty Vehicles. Upon reviewing the final awarded bids, we see that we were not awarded any of the state area designation and regions. With the review of the pricing of all the vendors, we were the only one who used price markup of 0.75% (¾ of a percent) over cost and did not discount down. We priced in this manner to give better pricing to the state. We have had a very strong and positive relationship with all previous state and county contracts or over 10 years. Our pricing equates to a savings of hundreds of dollars on parts than all the other winning bidders. We had faster delivery times than all other bidders as well. I have enclosed copies of quotes and an excel sheet showing out pricing (on few numbers that have been purchased in the past) as submitted and delivery times compared against the other vendors. We do not understand why we were not awarded for any position as a vendor. General Motors has a dynamic pricing model and markups on their parts anywhere from 40% to 67%. With our pricing model the pricing to state, discount would be on average of 41-46% off GM list pricing (which puts us with larger discounts than every winning vendor), of which GM doesn't even have a published list pricing anymore on 60% of their inventory as their list pricing model is updated dynamically BUT their cost only updates once a month. So in turn our pricing structure would save the state thousands and get them their part faster than all the other vendors.

With our bid it was required to submit pricing lists from the manufacturer which will show our claims here to be true. You can see the dynamic pricing nature and how our pricing can save the state thousands of dollars. We have served the state for many years and had no blemishes with service anywhere. We would very much like to continue our services with the state. We would like to know why if we have the best pricing and fastest delivery times why were we NOT awarded any supplier position?"

In consideration of Malouf Chevrolet's protest, I have reviewed the record of this procurement, including the Bid Solicitation, the Quotes received, the protest, the relevant statutes, regulations, and case law. This review 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 Malouf Chevrolet. I set forth herein my final agency decision.

A review of Malouf Chevrolet's submitted Quote reveals for Price Lines 1 (General Motors) and 2 (Chevrolet) it offered a ".+1% Markup" for both Price Lines.

State of New Jersey							
Department of Treasury, Procurement Bureau							
33 West State St., P.O. Box 230							
Trenton, NJ 08625							
Vendor (Bidder): MALOUF CHEVROLET			Cash Discount for Expedited Payment (I.e. 2% 10 Days, Net 30 Days) (Refer to Section 4.4.5.6)				
STATE-SUPPLIED PRICE SHEET - OEM AUTOMOTIVE PARTS AND ACCESSORIES FOR LIGHT DUTY VEHICLES (CLASS 4 OR LOWER, 15,000 LB. GVWR OR LESS)							
T-2760 (19DPP00280)							
Line Item	Item Description (Brands)	% Discount/Markup	Region Served			Delivery	
			North	Central	South	Stocked Delivery	Non-Stocked Delivery
1	General Motors	+ 1% MARKUP	X	X		1	2
2	Chevrolet	+ 1% MARKUP	X	X		1	2

Though not required by Bid Solicitation, with the Quote, Malouf Chevrolet included a copy of the Manufacturer’s price sheet which included price columns described as “list, trade, cost and core.”

Along with Malouf Chevrolet, the following Vendors {Bidders} submitted Quotes on Price lines 1 and 2: Bob Novick Chevrolet (offering 28% discount), McGuire Chevrolet Cadillac (offering 27% discount), Ciocca Chevrolet of Princeton (offering 38% discount), Beyer Bros. Corp. (offering 25% discount), DFFLM LC t/a Ditschman Flemington Ford FBO NJ Parts of Flemington (offering 35.6% discount), Fred Beans Parts Inc. (offering 28.6% discount), and Winzer Corporation (withdrew Quote per Bid Solicitation Section 1.2.7.2).

On January 14, 2019, the Bureau sent a letter to Malouf Chevrolet requesting that it submit a Best and Final Offer (BAFO) pursuant to Bid Solicitation Section 6.8 *Negotiation and Best and Final Offer (BAFO)* which states in pertinent part “[a]ny BAFO that does not result in more advantageous pricing to the State will not be considered, and the State will evaluate the Vendor’s {Bidder’s} most advantageous previously submitted pricing. If required, after review of the BAFO(s), clarification may be sought from the Vendor(s) {Bidder(s)}.”

In response to the BAFO request, Malouf Chevrolet indicated “COST+0.75% Markup” for both Price Lines 1 and 2.

State of New Jersey							
Department of Treasury, Procurement Bureau							
33 West State St., P.O. Box 230							
Trenton, NJ 08625							
Vendor : Malouf Chevrolet			Cash Discount for Expedited Payment (I.e. 2% 10 Days, Net 30 Days) (Refer to Section 4.4.5.6)				
STATE-SUPPLIED BAFO PRICE SHEET - OEM AUTOMOTIVE PARTS AND ACCESSORIES FOR LIGHT DUTY VEHICLES (CLASS 4 OR LOWER, 15,000 LB. GVWR OR LESS)							
T-2760 (19DPP00280)							
Line Item	Item Description (Brands)	% Discount/Markup	Region Served			Delivery	
			North	Central	South	Stocked Delivery	Non-Stocked Delivery
1	General Motors	COST + 0.75% MARKUP	X	X		1	2
2	Chevrolet	COST + 0.75% MARKUP	X	X		1	2

On March 15, 2019, after reviewing the BAFO response, a letter was sent to Malouf Chevrolet requesting clarification with respect to the submitted BAFO. Specifically, the letter stated in part:

On the State-Supplied BAFO Price Sheet submitted with your Company's Quote, for Price Lines 1 (General Motors) and 2 (Chevrolet), your Company inserted the words "COST + 0.75% MARKUP". Please confirm **that the +0.75% markup is a markup that will be applied to the items in each brand manufacturer's latest retail price list**, as indicated in Bid Solicitation Section 4.4.5.2.

[Emphasis added.]

In response to the Bureau's clarification letter, Malouf Chevrolet stated "clarification as to the cost + 0.75% is dealer cost plus 0.75% (3 tenths of a percentage) example...if Dealer cost is \$10.00 Dealer List is \$30.00 the states (sic) price would be \$10.08." See, Malouf Chevrolet March 15, 2019 email response. Again, the Bureau contacted Malouf Chevrolet reiterating the need for a clarification as to the submitted BAFO response.

On the State-Supplied BAFO Price Sheet submitted with your Company's Quote, for Price Lines 1 (General Motors) and 2 (Chevrolet), your Company inserted the words "COST + 0.75% MARKUP". Please confirm that the +0.75% markup is a markup that will be applied to the items in each brand manufacturer's latest retail price list, as indicated in Bid Solicitation Section 4.4.5.2.

[Bureau's March 15, 2019 email.]

On March 18, 2019, Malouf Chevrolet, responded to the clarification letter stating in part¹:

...As per the original price sheet "also attached", we saw the terms % Discount / Markup and priced the bid the same way we did the original bid. In you (sic) letter sent to us on January 14, 2019 you said our response must include "commitments stated in your original quote", which we took to mean the same pricing we gave you in the original bid. Nowhere in the letter was it specific that the bid was now being changed to only list less percentage from the manufacturer's list price and not either cost plus or list down as per the original bid. I do see that in section # 2 of the BAFO sheet it states latest retail list price but to be honest, we missed that and priced it as we had done before because the BAFO sheet said % Discount / Markup as the original price sheet stated and nowhere was it specific that the bid was changing from its original formula to a new one.

In its March 18, 2019 letter, Malouf Chevrolet admitted that it missed the fact that the percentage discount or markup offered on the State Supplied Price Sheet would be applied to the manufacturers' latest retail price list. With the March 18, 2019 response Malouf Chevrolet attached updated State Supplied Price Sheets, revising its previous markup percentages to a discount percentage of 38% for Price lines 1 and 2.

¹ While the March 15, 2019 clarification letter was addressed to Malouf Chevrolet Cadillac and was in respect to Malouf Chevrolet Cadillac's submitted BAFO only, the March 18, 2019 response included references to both Malouf Chevrolet Cadillac and Malouf Ford Lincoln BAFO responses.

State of New Jersey Department of Treasury, Procurement Bureau 33 West State St., P.O. Box 230 Trenton, NJ 08625							
vendor: <u>Malouf Chevrolet</u>			<u>Cash Discount for Expedited Payment (i.e. 2% 10 Days, Net 30 Days) (Refer to Section 4.4.5.6)</u>				
STATE-SUPPLIED BAFO PRICE SHEET - OEM AUTOMOTIVE PARTS AND ACCESSORIES FOR LIGHT DUTY VEHICLES (CLASS 4 OR LOWER, 15,000 LB. GVWR OR LESS) T-2760 (19DPP00280)							
Line Item	Item Description (Brands)	% Discount/Markup	Region Served			Delivery	
			North	Central	South	Stocked Delivery	Non-Stocked Delivery
1	General Motors	38%	x	x		1	2
2	Chevrolet	38%	x	x		1	2

On March 21, 2019, Malouf Chevrolet sent a second response to the Bureau's clarification letter. In that letter, Malouf Chevrolet stated:

First of all I would like to apologize for my ignorance in this pricing matter. I was on vacation the week of March 11th - 15th which is when you contacted our Chevrolet Parts manager Keith Diperi and asked him if pricing on our **BAFO sheets of + "0.45" (Ford) and + "0.75" (GM and Chevrolet) were accurate and instead of answering yes which is what he should have done**, he waited until I returned on the 18th and proceeded to tell me that based on #2 note on the BAFO sheet that the bid pricing was being changed to a discount off the manufacturer's "list" price without the option of a cost plus markup as in the original bid. I took his word on this since I had not been contacted by you directly and that is why I sent you the new BAFO sheets the other day. I see where his confusion was, when he read note # 2 he took the words "manufacturer latest retail price list" to mean the manufacturer's "retail list price" instead and caused all the confusion. I see now in reading note # 2 that you meant a cost + markup or List minus discount off of the pricing in the "manufacturer's retail price list". Ford (sic) this reason, **I would like to defer back to our original BAFO sheets of + "0.45" (Ford) and + "0.75" for GM and Chevrolet.** This pricing structure is more advantageous to the State which is why we priced it that way originally. Once again I apologize for the confusion, and had I not been on vacation and had the opportunity I would have responded correctly last week.

[Emphasis added.]

Based on Malouf Chevrolet's March 21, 2019 BAFO response and the requirements outlined in the Bid Solicitation and price sheet, the Bureau interpreted Malouf Chevrolet's statements to mean that the percentage markup offered in the BAFO response, specifically a 0.75 percent markup, would be applied to the latest retail price list for Price Lines 1 and 2.

Based on Bureau's interpretation, Malouf Chevrolet's Quote offered a 0.75% markup to be applied to the items on the manufacturer's latest retail price list. Other Vendor {Bidders} who submitted Quotes for Price Lines 1 and 2, offered discounts, not markups, to be applied to the manufacturer's latest retail price list. For example, Beyer Bros. Corp, a proposed awardee for Price Lines 1 and 2 (central and south),

offered 25% discount. Bob Novick Chevrolet, another proposed awardee for Price Lines 1 and 2 (south), offered 28% discount; Ciocca Chevrolet of Princeton, the third proposed awardee for Price Lines 1 and 2 (north and central), offered 38% discount; DFFLM LC t/a Ditschman Flemington Ford FBO NJ Parts of Flemington, final proposed awardee for Price Line 1 (south, north and central) and Price Line 2 (south), offered 35.6% discount. These discounts are to be applied to the manufacturer's latest retail price list, per Bid Solicitation Section 1.2.1. Given the percentage discounts provided by other Vendor {Bidders}, the Bureau concluded that 0.75% markup offered by Malouf Chevrolet was not cost effective for the State.

The Hearing Unit's review of Malouf Chevrolet's March 21, 2019 letter, along with the originally submitted Quote, and its protest results in a different interpretation of Malouf's Chevrolet's March 21, 2019 response to the Bureau's clarification letter. In the March 21, 2019 letter, Malouf Chevrolet stated "I see now in reading note # 2 that you meant a cost + markup or List minus discount off of the pricing in the manufacturer's retail price list". In the May 14, 2019 protest letter, Malouf Chevrolet additionally stated "with the review of the pricing of all the vendors, we were the only one who used price markup of 0.75% (¾ of a percent) over cost and did not discount down. We priced in this manner to give better pricing to the state." Based upon all of the information before it, the Hearing Unit concludes that Malouf Chevrolet intended its BAFO Quote response to be .75% markup over the "cost" price list and not .75% markup over the manufacturer's latest retail price list. While .75% markup on the "cost" price list would likely put Malouf Chevrolet in a better pricing position, that pricing structure was not permitted by the Bid Solicitation. As noted above, Bid Solicitation Section 1.2.2 *Significant Bid Solicitation Changes*, Bid Solicitation Section 4.4.5.2 *State Supplied Price Sheet Instructions*, and the State Supplied Price Sheet advised all Vendors {Bidders} that

Vendors {Bidders} must provide a percentage discount or markup based on the brand manufacturer's latest retail price list. The State will not accept any other price list types, such as wholesale, jobber, invoice, etc. A Vendor's {Bidder's} offering of a manufacturer's price list other than the manufacturer's latest retail price list on any given price line item will render its Quote non-responsive for that price line item.

Based upon the Hearing Unit's review, Malouf Chevrolet's clarification response rendered its Quote non-responsive to the requirements of the Bid Solicitation, since Vendors {Bidders} were to provide a discount or markup based on the brand manufacturer's latest retail price list.

Finally, in the protest Malouf Chevrolet asserts that "with our bid [we were] required to submit pricing lists from the manufacturer which will show our claims here to be true." Malouf Chevrolet's reading of the Bid Solicitation is in error. In the prior procurement of this contract, the Bid Solicitation required the Vendor {Bidder} to "submit, if available, the manufacturer's latest preprinted price list."² That language was removed from the current Bid Solicitation as all Vendors {Bidders} were required to offer their discounts or markups off of the manufacturer's latest retail price list. See, Bid Solicitation Section 1.2.1 *Significant Bid Solicitation Changes* and Bid Solicitation Section 4.5.2 *State-Supplied Price Sheet Instructions*. In developing the specifications for this Bid Solicitation, the Bureau confirmed with all of the brand manufacturers listed in the Bid Solicitation that all potential Vendors {Bidders}, able to provide the OEM Automotive Parts and Accessories for Light Duty Vehicles Class 4 or Lower as sought by the bid solicitation, had access to manufacturer's current retail price list. Therefore, to the extent that Malouf

² Bid Solicitation 17DPP00114 - T2760 OEM Automotive Parts and Accessories for Light Duty Vehicles Class 4 or Lower was cancelled as the Bureau determined that it needed to revise the specification in order for the Quotes received to comply with the requirements of *I/M/O Request For Proposals #17DPP00144, Employee Benefits: Pharmacy Benefit Management Contract* (Superior Court of New Jersey, Appellate Division, Docket No. A-4751-1611), decided on May 11, 2018.

Chevrolet thought it was required to submit the manufacturer's price list with its Quote, that interpretation of the current Bid Solicitation was incorrect.

Based on the review of the Quotes submitted, the Bureau did not recommend a Blanket P.O. award to Malouf Chevrolet, because its Quote was not the most advantageous to the State, price and other factors considered. "The purpose of competitive bidding . . . is, as has been frequently reiterated, not the protection of the individual interests of the bidders but rather the advancement of the public interest in securing the most economical result by inviting competition in which all bidders are placed on an equal basis. . . ." River Vale v. R. J. Constr. Co., 316 A.2d 737, 741 (1974). The Hearing Unit's review of the record confirms the Bureau's decision. In light of the findings set forth above, I sustain the Bureau's Notice of Intent to Award of Bid Solicitation 19DPP00280. This is my final agency decision on this matter.

Thank you for your company's continuing interest in doing business with the State of New Jersey and for registering your business with **NJSTART** at www.njstart.gov, the State of New Jersey's new eProcurement system.

Sincerely,


Maurice A. Griffin
Acting Director

MAG: RD

c: J. Kercher
K. Thomas
S. Ghorbani
B. Birchmeier