

RE: Formal Protest-Bid No. TRN2130464B2 (Bus Batteries-FTA)

Dear Ms. Richards,

FORMAL PROTEST

On behalf of Los Pasos, LLC d/b/a Batteries Plus, LLC (“Batteries Plus”), this letter constitutes a formal protest of the recommendation for Award issued in connection with Bid No. **TRN2130464B2 - Bus Batteries (FTA)**.

This protest is timely submitted in accordance with the Broward County Procurement Code and the Summary of Vendor Rights.

I. Basis of Protest

Batteries Plus respectfully protests the determination that its bid is “non-responsible.” This determination is arbitrary, unsupported by the solicitation requirements, inconsistent with the County’s prior actions during the procurement process, and based on speculative concerns rather than objective evidence.

II. Grounds for Protest

1. Improper Application of Unstated Evaluation Criteria

The solicitation’s Specifications and Requirements do not require prior experience specifically within the “bus battery industry” as a condition of responsiveness or responsibility.

The stated requirements focus on:

- Technical compliance of the batteries (Section 3)
- Delivery and operational requirements (Section 4)
- Quantity and ordering flexibility (Sections 2.7 and 2.8)

At no point does the solicitation require vendors to demonstrate prior transit or bus-specific experience. The County’s reliance on this factor constitutes the application of an unstated evaluation criterion, which is inconsistent with fundamental procurement principles requiring that all evaluation factors be disclosed in advance.

. County Approval of Proposed Product as an “Approved Equal”

Prior to bid evaluation, the County reviewed and approved Batteries Plus’s proposed product (**East Penn / Deka 908DFT**) as an acceptable equivalent.

This approval confirms that:

- The product meets or exceeds all technical specifications
- The County deemed the offering suitable for its operational needs

Having approved the product as compliant, the subsequent rejection based on generalized concerns regarding capability is inconsistent with the County’s own determination and undermines the integrity of the evaluation process.

3. Unsupported and Speculative Determination of Non-Responsibility

The determination cites concerns regarding:

- Lack of “bus battery industry” experience
- Logistics associated with warehouse and distribution locations

However, these concerns are speculative and not supported by objective evidence. Batteries Plus:

- Is an established supplier of commercial and heavy-duty batteries,
- Is supported by a nationally recognized manufacturer (East Penn Manufacturing),
- Has the operational capability to meet delivery, quantity, and service requirements outlined in the solicitation.

The solicitation itself requires delivery F.O.B. destination and places responsibility for logistics on the contractor. Batteries Plus’s supply chain and distribution model are fully capable of meeting these requirements.

No evidence has been presented demonstrating that Batteries Plus cannot meet delivery timelines, fulfill order quantities, or comply with contract requirements. Absent such evidence, the conclusion that Batteries Plus is non-responsible is arbitrary and not supported by the facts.

4. Demonstrated Experience, Product Consistency, and Verified Operational Capability

The County’s determination that Batteries Plus lacks relevant experience and operational capability is directly contradicted by readily verifiable facts in the record.

First, Batteries Plus currently supports multiple major public transit systems, including but not limited to:

- City of Orlando
- Denver Regional Transportation District (RTD)
- New York City Metropolitan Transportation Authority (MTA)
- Dallas Area Rapid Transit (DART)

These agencies represent some of the largest and most operationally demanding transit systems in the United States. Batteries Plus’s ongoing support of these entities demonstrates direct, relevant experience in supplying batteries for transit fleet applications and refutes the assertion that the firm does not operate within the bus battery industry.

Second, the product proposed by Batteries Plus (**East Penn / Deka batteries**) has already been approved by the County as an acceptable equivalent and is the same manufacturer and product line currently supplied by the incumbent vendor under this contract. This further demonstrates that the proposed solution is industry-standard, proven in transit applications, and fully capable of meeting the County’s operational requirements.

In addition, East Penn Manufacturing maintains a distribution center in Fort Lauderdale, Florida, located approximately 12 miles from the Batteries Plus facility. This local distribution capability further mitigates any perceived logistical concerns and enables rapid fulfillment of battery orders.

Notably, this is the same manufacturer and distribution network utilized within the industry, including by the incumbent supplier, further demonstrating that Batteries Plus has access to the same supply chain infrastructure relied upon for current contract performance.

Third, County personnel conducted a site visit of the Batteries Plus facility in Florida. During this visit, the County was shown a warehouse facility with sufficient capacity to store significant inventory (including capacity to store approximately 18 pallets of battery inventory). The only noted concern was the absence of inventory at the time of the visit. However, as Batteries Plus is not currently under contract for this service, it would not be commercially reasonable to maintain dedicated inventory for a contract not yet awarded. The facility, supply chain, and manufacturer support are in place to procure, stage, and deliver inventory in accordance with contract requirements upon award.

Collectively, these facts demonstrate that Batteries Plus possesses the necessary experience, infrastructure, and supply capability to fully perform the contract. The County's conclusion to the contrary is therefore unsupported by the factual record.

. Lack of Opportunity for Clarification

Batteries Plus was not provided an opportunity to address or clarify any perceived concerns related to its experience or logistics capabilities prior to being deemed non-responsible.

Given that responsibility determinations should be based on a thorough and fair evaluation of a vendor's ability to perform, the absence of any request for clarification further supports that the determination was premature and not fully substantiated.

III. Relief Requested

Based on the foregoing, Batteries Plus respectfully requests that Broward County:

1. Sustain this protest;
 - . Set aside the current recommendation for award;
 - . Re-evaluate Batteries Plus's bid in accordance with the stated solicitation requirements and applicable procurement standards; and
 - . Grant any other relief deemed appropriate.
 - . Stay the award pending resolution of this protest.

IV. Reservation of Rights

Batteries Plus reserves all rights available under the Broward County Procurement Code, including the right to supplement this protest with additional supporting documentation and argument as necessary.

Thank you for your attention to this matter. Please confirm receipt of this protest and advise of any additional requirements, including any applicable filing fee or procedural steps.

Sincerely,

Ricky Ibarra

A handwritten signature in black ink, appearing to read 'Ricky Ibarra', with a large, sweeping flourish above the name.