

Bond Case Briefs

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POLITICAL SUBDIVISIONS - NEW JERSEY

In re Protest of Contract for Retail Pharmacy Design

Supreme Court of New Jersey - May 23, 2024 - A.3d - 2024 WL 2335151

Disappointed bidder on University Hospital's request for proposals (RFP) regarding contract to design, construct, and operate pharmacy filed notices of appeal with the Superior Court, Appellate Division, after Hospital's hearing officer denied disappointed bidder's post-award bid protest and its protest of Hospital's post-award change in location of proposed pharmacy.

Successful bidder's motion to intervene was granted.

The Superior Court, Appellate Division, dismissed appeals, holding that University Hospital was not "state administrative agency" within meaning of court rule allowing appeals to be taken as of right to Appellate Division to review decisions or actions of such agencies. Disappointed bidder's petitions for certification and motion to consolidate appeals were granted.

The Supreme Court held that University Hospital was not "state administrative agency."

University Hospital was not "state administrative agency" within meaning of court rule governing appeals from final decisions of such agencies, and thus, disappointed bidder was not entitled to file appeals from University Hospital's denial of post-award bid protests in Appellate Division, even though legislature designated Hospital "body corporate and politic" and "instrumentality of the State"; legislature did not place Hospital in an executive department or declare it to be "in but not of" such a department, as constitutionally necessary for Hospital to constitute "state administrative agency," legislature gave Hospital operational independence and unique power to offer itself for sale, and legislature did not charge Hospital with implementing or administrating healthcare policies.