



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
PROCUREMENT BUREAU
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July 20, 2018

Via Electronic Mail [mmacera@dublinmetals.com] and USPS Regular Mail

Marie Macera
Dublin Scrap Metal, Inc.
489 Frelinghuysen Ave.
Newark, NJ 07114

Re: I/M/O Bid Solicitation #: 18DPP00213 Dublin Scrap Metal, Inc.
Request for Reconsideration
Bid Solicitation Title: T2634 – Scrap Metal Collection and Recycling/Disposal: Statewide

Dear Ms. Macera:

This letter is in response to your emails of July 16, 2018, on behalf of Dublin Scrap Metal, Inc. (“Dublin Scrap Metal”) to the Division of Purchase and Property’s (“Division”) Hearing Unit. In those communications, Dublin Scrap Metal requests the Division reconsider its July 13, 2018 final agency decision which upheld the Notice of Proposal Rejection issued by the Division’s Proposal Review Unit for Bid Solicitation #18DPP00213 – T2634 Scrap Metal Collection and Recycling/Disposal: Statewide (“Bid Solicitation”).¹ The record of this procurement reveals that Dublin Scrap Metal’s Quote was rejected for failing to submit an *Ownership Disclosure Form* with the Quote.

By way of background, on May 7, 2018, the Division’s Procurement Bureau (“Bureau”) issued the Bid Solicitation on behalf of the State of New Jersey and Cooperative Purchasing Program Participants to solicit Quotes from qualified Vendors {Bidders} to provide the recycling and disposal of wood pallets, light

¹ For consistency, this final agency decision uses terminology employed by the State of New Jersey’s **NJSTART** eProcurement system. For ease of reference, the following is a table which references the **NJSTART** term and the statutory, regulatory and/or legacy term.

NJSTART Term	Statutory, Regulatory and/or Legacy Term
Bid Solicitation	Request For Proposal
Bid Amendment	Addendum
Change Order	Contract Amendment
Master Blanket Purchase Order	Contract
Offer and Acceptance Page	Signatory Page
Quote	Proposal
Vendor {Bidder}	Bidder
Vendor {Contractor}	Contractor

iron, steel, aluminum, cooper, stainless steel, brass, lead, lead acid batteries, crushed steel drums, and other surplus scrap metal through a rebate program. Bid Solicitation § 1.1 *Purpose and Intent*. It is the State's intent to award one Master Blanket Purchase Order ("Blanket P.O.") per region, with the State separated into the following three regions: North, Central, and South. *Ibid.* Awards will be made to those Vendors {Bidders} whose Quotes, conforming to this Bid Solicitation are most advantageous to the State, price and other factors considered. *Ibid.*

On June 7, 2018, the Bureau issued Bid Amendment #1 responding to the questions posed by potential Vendors {Bidders}, posting a revised Bid Solicitation, State-Supplied Price Sheet, and Bid Solicitation Checklist. Substantively, the revised Bid Solicitation removed wood pallet removal, recycling, and disposal from the scope of work and otherwise made corrections and updates to various provisions of the Bid Solicitation, including updating the State of New Jersey Standard Terms and Conditions. Bid Amendment #1 also extended the Quote Submission Due Date from June 15, 2018 to June 29, 2018.

On June 29, 2018, the Division's Proposal Review Unit opened three Quotes received by the submission deadline of 2:00 p.m. eastern time, two of which were in hardcopy format. Dublin Scrap Metal uploaded Quote 00002341 via [NJSTART](#) at 11:32:53 a.m. on June 29, 2018. The Quote included the following documents:

- An *Offer and Acceptance Page*;
- A *Vendor/Bidder Certification and Political Contribution Disclosure Form Public Law 2005, Chapter 271 Form*;²
- A *Cooperative Purchasing Form*;
- A *Disclosure Form of Investigations and Other Actions Involving the Vendor/Bidder Form*;
- A *Disclosure of Investment Activities in Iran Form*;
- A *Source Disclosure Form*;
- A *Subcontractor Utilization Plan Form*;
- A *Revised Price Schedule as of 06/07/18, Southern Region*;
- A *Vendor {Bidder} Quote Overview Form*; and
- A cover letter from Dublin Scrap Metal dated June 29, 2018.

Dublin Scrap Metal also uploaded all of these documents to its vendor profile page in [NJSTART](#), except for the *Revised Price Schedule as of 06/07/18* and the cover letter.

On July 9, 2018, the Division issued Dublin Scrap Metal a Notice of Proposal Rejection, advising that the Quote was rejected because it was missing required RFP certifications, forms, and attachments.

² The *Vendor/Bidder Certification and Political Contribution Disclosure Form Public Law 2005, Chapter 271 Form* was misidentified as a "Chapter 51" form both in Dublin Scrap Metal's Quote and the documents uploaded to its vendor profile. As noted on the *Vendor/Bidder Certification and Political Contribution Disclosure Form Public Law 2005, Chapter 271 Form*, "the disclosure requirements under Public Law 2005, Chapter 271 are separate and different from the disclosure requirements under Public Law 2005, Chapter 51 (formerly Executive Order 134)." Unlike the *Ownership Disclosure Form* which must be submitted with the Quote, a *Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions Form* is required before the award of a Blanket P.O. See Bid Solicitation Section 7.1.1 *Requirements of Public Law 2005, Chapter 51, N.J.S.A. 19:44a-20.13 - N.J.S.A. 19:44a-20.25 (Formerly Executive Order No. 134), Executive Order No. 117 (2008) and N.J.A.C. 17:12-5 et seq.* Therefore, Dublin Scrap Metal's failure to include a completed *Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions Form* was not a basis upon which Dublin Scrap Metal's Quote was rejected.

Specifically, Dublin Scrap Metal's Quote was missing a completed *Ownership Disclosure Form*. The Notice of Proposal Rejection also advised that Dublin Scrap Metal's Quote was missing pricing information.

On July 10, 2018, Dublin Scrap Metal sent the Division an email stating:

Please accept our reply as to allowing our bid, we did upload pricing as required I did verify that in NJ Start. As for Ownership Disclosure form, we believe that was uploaded as well. Please accept the documents attached.

Please if there is anything further I am standing by. We appreciate your acceptance.

Attached to Dublin Scrap Metal's July 10, 2018 email were (1) a *Revised Price Schedule as of 06/07/2018, Southern Region*, and (2) an *Ownership Disclosure Form*. Dublin Scrap Metal's email and the attachments were accepted as a protest of the July 9, 2018 Notice of Proposal Rejection.

On July 13, 2018, the Division issued its final agency decision upholding the Proposal Review Unit's Notice of Proposal Rejection. Dublin Scrap Metal's Quote did include a completed State-supplied Price Sheet so it should not have been rejected on that basis. However, the Quote did not include a completed *Ownership Disclosure Form*. In summary the final agency decision stated:

Here, unfortunately, Dublin Scrap Metal submitted a Quote without including an *Ownership Disclosure Form* and the Division is prohibited from accepting it after the Quote submission deadline. Notwithstanding Dublin Scrap Metal's interest in competing for this procurement and its longstanding service to the State, to allow Dublin Scrap Metal to submit the completed and signed *Ownership Disclosure Form* after bid opening would violate the Legislative requirements outlined in N.J.S.A. 52:25-24.2 that the ownership information must be submitted prior to or with the Quote, a requirement that the Division is not authorized to waive. Accordingly, Dublin Scrap Metal's Quote was properly rejected by the Proposal Review Unit.

On July 16, 2018, Dublin Scrap Metal wrote to the Division stating:

We are very disappointed in The State's decision as we are certain and we have notes that all forms were uploaded to the NJ Start system, could there be a "glitch" in the NJ Start online system, where somehow the document was lost in upload?

If there is any chance or area of terms and conditions where we can be allowed to be considered, as we feel something is not right as we are certain all required documents were uploaded timely.

Later on July 16, 2018, Dublin Scrap Metal sent another email to the Division stating:

In further review of your Final Agency Decision, we read on page 7 of 8, The States' indication that in 2014 until current there is no Ownership Disclosure Form on file. Dublin Scrap Metal, Inc. has held this contract since 2007 and was then extended in 2014 through August 2018. How could it be that The State has accepted our services from 2014 through now, without this form on file and upon this rebid we are now being rejected because of what we believe is computer glitch on the NJ Start online system. We are certain we uploaded this form along with all other forms at time bid was due and are strongly appealing this decision.

After citing the paragraph of the final agency decision referenced above and the pertinent statutory language from N.J.S.A. 52:25-24.2, Dublin Scrap Metal concluded:

In this appeal we challenge the Acting Director Mr. Maurice A Griffin to the decision that has been "finalized" where to non-compliance if that exists has been overlooked by the Acting Director for the past 4 years while the incumbent, Dublin Scrap Metal has been providing services to The State of New Jersey.

We request, in consideration of our past performance, longevity in unmatched services to over 100 of The State of New Jersey's units and agencies for the past 11 years, that an award be issued and/or we are reentered into an approved vendor state and Dublin Scrap Metal, Inc. remains the vendor of choice for this contract.

We appreciate your reply no later than July 20, 2018 so to avoid any further action with The New Jersey Legislature and its' statues.

In consideration of Dublin Scrap Metal's request for reconsideration, I have reviewed the record of this procurement, including the Bid Solicitation, Dublin Scrap Metal's Quote and protest, the July 13, 2018 final agency decision, the request for reconsideration, the relevant statutes, regulations, and case law. This review of the record has provided me with the information necessary to determine the facts of this matter and to render an informed decision. For the reasons set forth in the July 13, 2018 final agency decision, I must sustain the Proposal Review Unit's Notice of Proposal Rejection.

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:

- (a) In order to be eligible for consideration for award of contract, the bidder's proposal shall³ conform to the following requirements or be subject to designation as a non-responsive proposal for non-compliance:

...

4. Contain all RFP-required certifications, forms, and attachments, completed and signed as required. An RFP may designate certain forms and/or certifications that need not be included in the bidder's proposal but that must be provided by a successful bidder upon request prior to an award of contract;

³ "Shall or Must – Denotes that which is a mandatory requirement. Failure to meet a mandatory material requirement will result in the rejection of a Quote {Proposal} as non-responsive." Should or May – "Denotes that which is permissible or recommended, not mandatory." Bid Solicitation § 2.2 *General Definitions*.

[N.J.A.C. 17:12-2.2(a), *emphasis added.*]

The subject solicitation was comprised of the Bid Solicitation and other documents and mandatory forms which were specifically addressed in Bid Solicitation Section 4.0 *Quote {Proposal} Preparation and Submission* which states in pertinent part:

Vendor's {Bidder's} failure to complete, sign, and submit the forms in Section 4.4.1.2 shall be cause to reject its Quote as non-responsive.

[Bid Solicitation § 4.4.1.2 *NJ Standard Bid Solicitation Forms Required With The Quote.*]

Among those forms required to be submitted with the Quote is the *Ownership Disclosure Form* discussed in Bid Solicitation Section 4.4.1.2.1 *Ownership Disclosure Form*.

With respect to ownership, the New Jersey Legislature mandated that a Vendor {Bidder} must supply its ownership information, prior to or with its Quote, to be eligible to enter into a Blanket P.O. with the State. N.J.S.A. 52:25-24.2. In order to make this process of complying with the legislative requirement easier, the Division provides to the bidding community with an *Ownership Disclosure Form* to be completed, signed and submitted with the Quote. But, as an alternative to the submission of the *Ownership Disclosure Form*, as noted in Bid Solicitation Section 4.4.1.2.1, Vendors {Bidders} using **NJSTART** to submit a Quote are permitted to make the appropriate certification regarding ownership disclosure on the "Maintain Terms and Categories" Tab within its vendor profile. As shown below, Dublin Scrap Metal did not complete the Ownership Disclosure category within its vendor profile:

Vendor Profile - Dublin Scrap Metal Inc

Organization Information | State | Address | Contact Info (Email and Phone) | Register | **Terms & Categories** | Attachments | Vendor Information

Terms and Categories Information

Terms

Payment Terms
Freight Terms
Shipping Method
Shipping Terms

Categories & Certifications

Category: 1. Primary Business Function (MANDATORY FIELD)

Other - Enter Description of Business in Notes Below

Category: 3. Business Formation (MANDATORY FIELD)

Corporation (including Professional Corporation Government Entity)

Category: 4. Electronic Funds Transfer Certification (MANDATORY FIELD)

Description: I certify that I am an appointed agent of the vendor referenced and that I hereby authorize the State of NJ to initiate payments to the bank acct and bank named in the electronic funds transfer (if and when the information is provided). This authority is to remain in full force and effect until the State of NJ receives notification of any changes, and in such a manner as to afford the State of NJ a reasonable opportunity to Act

Select if you prefer paper checks instead and do not want to receive payments via EFT. Any banking information entered as part of your firm's case address will be disregarded and remain inactive.

Category: 5. Tax ID Certification (Substitute W9) (MANDATORY FIELD)

Description: Under Penalties of Perjury, I certify that (1) The number provided via this registration process is my correct taxpayer ID number AND (2) I am not subject to backup withholding AND (3) I am a U. S. Citizen or a defined U. S. Person for federal tax purposes.

Select if you agree with the statement above

Category: Certification: Business Registration

Description: This Certification status is updated daily. If your business is not registered, or if your registration is not active, please see the following link:

Active









Because did not complete the Ownership Disclosure category within its **NJSTART** vendor profile, it was required to submit the form with its Quote, or attach the form to its vendor profile within **NJSTART**. As shown in the screenshot below, Dublin Scrap Metal did not upload an *Ownership Disclosure Form* to its vendor profile. The Division opened each of the documents uploaded by Dublin Scrap Metal under its profile and none of the documents included ownership information.⁴

Vendor Profile - Dublin Scrap Metal Inc.

Organization Information Users Address Commodity Codes and Services Regions Terms & Categories **Attachments** Vendor Performance

Attachments Information

Profile Attachments

Download	File	Description	Size	Uploaded By	Uploaded Date
	DUBLINSCRAPMETAAL18DPP00213 OFFER AND ACCEPTANCE T2634~1.pdf		829,693 bytes	Marie Macera	06/28/2018 03:09:27 PM
	DUBLINSCRAPMETAAL18DPP00213CHAPT51 POLITICAL~1.pdf		949,013 bytes	Marie Macera	06/28/2018 03:09:37 PM
	DUBLINSCRAPMETAAL18DPP00213COOPERATIVEPURCHASING~1.pdf		855,308 bytes	Marie Macera	06/28/2018 03:09:47 PM
	DUBLINSCRAPMETAAL18DPP00213DISCLOSURE INVEST T2634~1.pdf		1,841,906 bytes	Marie Macera	06/28/2018 03:09:57 PM
	DUBLINSCRAPMETAAL18DPP00213DISCLOSUREINVESTIRAN T2634~1.pdf		292,579 bytes	Marie Macera	06/28/2018 03:10:12 PM
	DUBLINSCRAPMETAAL18DPP00213SOURCE DISCLOSURE T2634~1.pdf		281,204 bytes	Marie Macera	06/28/2018 03:10:21 PM
	DUBLINSCRAPMETAAL18DPP00213SUBCONTRACTOR T2634~1.pdf		294,402 bytes	Marie Macera	06/28/2018 03:10:30 PM
	DUBLINSCRAPMETAAL18DPP00213VENDOR OVERVIEW FORM~1.pdf		1,055,742 bytes	Marie Macera	06/28/2018 03:10:38 PM

Forms

No Form Attachments

As shown below, Dublin Scrap Metal uploaded documents representing its Quote between June 28 and June 29, 2018. None of these documents contains required ownership disclosure information, as required by N.J.S.A. 52:25-24.2.

⁴ The file named “DUBLINSCRAPMETAAL18DPP00213CHAPT51 POLITICAL~1.pdf” and attached to the Vendor Profile is the same misidentified *Vendor/Bidder Certification and Political Contribution Disclosure Form Public Law 2005, Chapter 271 Form* that was attached to the Quote, discussed above. It is noted that had Dublin Scrap Metal included a completed *Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions Form*, ownership information would have potentially been included within the Quote, as the *Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions Form* also requests all “10% and greater shareholders of a corporation or all shareholder of a PC” be disclosed.

Quote 00002341 - Dublin Scrap Metal Inc.

General Items Questions Subcontractors Terms & Conditions Attachments(10) Evaluations Preference Reminders Summary

Files

Name	Description	Confidential	Order	Attached By	Attached Date
DUBLINSCRAPMETAAL18DPP00213 OFFER AND ACCEPTANCE T2634.pdf (view details)	VOLUME 1 SECTION 1 OFFER AND ACCEPTANCE LETTER	<input type="checkbox"/>	0	Marie Macera	06/28/2018
DUBLINSCRAPMETAAL18DPP00213CHAPTER1 POLITICAL.pdf (view details)	VOLUME 1 SECTION 1 TWO YEAR CHAPTERS1	<input type="checkbox"/>	0	Marie Macera	06/28/2018
DUBLINSCRAPMETAAL18DPP00213COOPERATIVEPURCHASING.pdf (view details)	VOLUME 2 SECTION 3A COOPERATIVE PURCHASING	<input type="checkbox"/>	0	Marie Macera	06/28/2018
DUBLINSCRAPMETAAL18DPP00213DISCLOSURE INVEST T2634.pdf (view details)	VOLUME 1 SECTION DISCLOSURE INVESTIGATIONS	<input type="checkbox"/>	0	Marie Macera	06/28/2018
DUBLINSCRAPMETAAL18DPP00213DISCLOSUREINVESTIRAN T2634.pdf (view details)	VOLUME 1 SECTION DISCLOSURE IRAN	<input type="checkbox"/>	0	Marie Macera	06/28/2018
DUBLINSCRAPMETAAL18DPP00213SOURCE DISCLOSURE T2634.pdf (view details)	VOLUME 1 SECTION SOURCE DISCLOSURE	<input type="checkbox"/>	0	Marie Macera	06/28/2018
DUBLINSCRAPMETAAL18DPP00213SUBCONTRACTOR T2634.pdf (view details)	VOLUME 1 SECTION SUBCONTRACTOR UTILIZATION PLAN	<input type="checkbox"/>	0	Marie Macera	06/28/2018
DUBLINSCRAPMETAAL18DPP00213VENDOR OVERVIEW FORM.pdf (view details)	VOLUME 2 SECTION 2 VENDOR OVERVIEW	<input type="checkbox"/>	0	Marie Macera	06/28/2018
DUBLINSCRAPMETAAL18DPP00213T2634 REVISED Price Schedule.xlsx (view details)	VOLUME 3 SECTION 4 PRICE SHEET	<input checked="" type="checkbox"/>	0	Marie Macera	06/29/2018
special note.pdf (view details)	VOLUME 2 SECTION 3A SPECIAL NOTE TO STATE	<input type="checkbox"/>	0	Marie Macera	06/28/2018

Forms

No Form Attachments

It is firmly established in New Jersey that material conditions contained in bidding specifications may not be waived. Twp. of Hillside v. Sternin, 25 N.J. 317, 324 (1957). In Meadowbrook Carting Co. v. Borough of Island Heights, 138 N.J. 307, 315 (1994), the New Jersey Supreme Court adopted the test for determining materiality as set forth by the court in Township of River Vale v. Longo Construction Co., 127 N.J. Super. 207 (Law Div. 1974). “In River Vale, Judge Pressler set forth a two-part test for determining ‘whether a specific noncompliance constitutes a substantial [material] and hence non-waivable irregularity.’” Meadowbrook Carting, *supra*, 138 N.J. at 315 (quoting River Vale, *supra*, 127 N.J. Super. at 216). The test to determine if a deviation is material is as follows:

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. 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.” In re Protest of Award of On-Line Games Prod. & Operation Servs. Contract, Bid No. 95-X-20175, 279 N.J. Super. 566, 595 (App. Div. 1995). However, the “preliminary inquiry is whether the bid deviates from the RFP. If there is no deviation, the bid must be deemed conforming.” Id. at 594. Accordingly, the question is whether a Vendor’s {Bidder’s} failure to comply with the statutory ownership disclosure requirement is a material deviation which would render the Quote nonresponsive. See, C&H Indus. Servs., Inc. v. City of Vineland, No. A-3780-13, at *13 (App. Div. May 23, 2014).

Based upon the relevant case law, I find that Dublin Scrap Metal’s Quote contains a material deviation from the requirements of the solicitation making the Quote nonresponsive. With respect to the previously mentioned River Vale factors, I note that the Courts have determined “noncompliance with N.J.S.A. 52:25-24.2 ‘deprive[s] the [contracting entity] of its assurance that the contract will be entered

into, performed and guaranteed according to its specified requirements” because the failure to fully disclose 10% owners deprive the contracting entity and the public of the information with which it can be made aware of the real parties in interest, identify conflicts of interest, and the information necessary to assess the capability, financial stability and moral integrity of the bidder. C&H Indus. Servs., supra, at *14-15 (quoting Meadowbrook Carting, supra, 138 N.J. at 315). Further, noncompliance with the statutory requirement places Dublin Scrap Metal in a position of advantage over other Vendors {Bidders} who might have bid on the project had they known they could avoid timely filing of the disclosure statement or that it would be waived. Muirfield Const. Co., Inc. v. Essex County Imp. Auth., 336 N.J. Super. 126, 136-37 (App. Div. 2000).

In reviewing a Quote submitted in response to a Bid Solicitation, the Division does not have the power to waive the legislative requirement that a Vendor {Bidder} provide its ownership information prior to or accompanying the Quote submission. Only the New Jersey Legislature can change a requirement it has mandated. If the requirements of N.J.S.A. 52:25-24.2 and N.J.A.C. 17:12-2.2 are not met, a Quote must be rejected. These statutes and regulations mandate stringent enforcement to maintain the equal footing of all Vendors {Bidders} and to ensure the integrity of the State’s bidding process.

Dublin Scrap Metal asserts that there must be a “glitch” in the **NJSTART** system causing the *Ownership Disclosure Form* to be lost in upload. However, the Division has no record or indication of any down time or system-wide issues impacting **NJSTART** on June 29, 2018. While Dublin Scrap Metals was the only Vendor {Bidder} to submit a Quote via **NJSTART** for the subject Bid Solicitation on June 29, 2018, the Division received three Quotes via **NJSTART** in response to a separate and unrelated Bid Solicitation which shared the same June 29, 2018 Quote Submission due date. There were no issues or problems reported to the Division regarding **NJSTART**. Accordingly, I cannot conclude that there was a “glitch” or other system-wide issue that prevented the upload or otherwise interfered with the submission of Quotes via **NJSTART**.

Finally, Dublin Scrap Metal questions why the State “accepted our services from 2014 through now, without this form on file and upon rebid we are now being rejected because of what we believe is a computer glitch on the [**NJSTART**] online system.” As noted above and in the July 13, 2018 final agency decision, N.J.S.A. 52:25-24.2 requires Vendors {Bidders} to provide the State ownership information “prior to the receipt of the bid or accompanying the bid[.]” (Emphasis added). See, In re Scheduled Award of Term Contract T2813 RFP 12-X-22361 Lab. Testing Serv., Equine Drug Testing, No. A-1336-12, at *30 (App. Div. July 10, 2013) (concluding the Division’s six-month look back period was “consistent with the requirement of N.J.S.A. 52:25-24.2”).

After concluding that the Quote failed to include ownership information, the July 13, 2018 final agency decision analyzed whether the Division had the information “prior to the receipt of the bid” as permitted by N.J.S.A. 52:25-24.2 and Bid Solicitation Section 4.4.1.2.1 *Ownership Disclosure Form*. But in order to do so, the Bid Solicitation advised as follows:

A Vendor’s {Bidder’s} failure to submit the completed and signed form with its Quote will result in the rejection of the Quote as non-responsive and preclude the award of a Blanket P.O. to said Vendor {Bidder} unless the Division has on file a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the Quote submission deadline for this procurement.

[Bid Solicitation Section 4.4.1.2.1 *Ownership Disclosure Form*.]

Therefore, as the Quote Submission Due Date for this Bid Solicitation was June 29, 2018, in order to be accepted as compliance with the ownership disclosure requirements for the present Bid Solicitation, the *Ownership Disclosure Form* on file would have to be (1) accurate, (2) signed, and (3) dated on or after December 29, 2017.

As an incumbent contractor on T2634, Dublin Scrap Metal complied with N.J.S.A. 52:25-24.2 at the time it submitted its proposal in response to Request for Proposals 15-X-23520, which was the most recent solicitation of these services prior to the Bid Solicitation. But, as noted in the July 13, 2018 final agency decision, the only *Ownership Disclosure Form* that the Division had on file for Dublin Scrap Metal was signed and dated June 11, 2014.⁵ However, because the June 11, 2014 form is not dated on or after December 29, 2017, or within six months of the June 29, 2018 Quote Submission due date, it cannot be used to satisfy the statutory ownership disclosure requirements in N.J.S.A. 52:25-24.2. Further, as noted in the July 13, 2018 final agency decision, Dublin Scrap Metal did not submit an updated *Ownership Disclosure Form* at the time the existing Blanket P.O. was extended on or about September 1, 2017. But, it is noted that even if Dublin Scrap Metal submitted a revised *Ownership Disclosure Form* to the Procurement Bureau in connection with this extension, the disclosure would have been outside the six-month look back period established by Bid Solicitation Section 4.4.1.2.1 Ownership Disclosure Form. See, In re Scheduled Award of Term Contract T2813 RFP 12-X-22361 Lab. Testing Serv., Equine Drug Testing, No. A-1336-12, at *30 (App. Div. July 10, 2013) (concluding the Division's six-month look back period was "consistent with the requirement of N.J.S.A. 52:25-24.2").

Here, unfortunately, Dublin Scrap Metal submitted a Quote without the *Ownership Disclosure Form* attached. Notwithstanding Dublin Scrap Metal's interest in competing for this procurement, to allow Dublin Scrap Metal to submit the completed and signed *Ownership Disclosure Form* after bid opening would violate the Legislative requirements outlined in N.J.S.A. 52:25-24.2, requirements that the Division is not authorized to waive.

This is an unfortunate situation for the State as the Division encourages competition and appreciates the time and effort put forth in preparing and submitting the Quote. However, in light of the findings set forth above and in the Division's July 13, 2018 Final Agency Decision, I have no choice but to deny your request for eligibility to participate in the competition for the subject contract. 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 eProcurement system. I invite you to visit the **NJSTART** Vendor Support Page and review the Division's Quick Reference Guide entitled "How to review a submitted Quote" which provides information and instructions on how to review your company's submitted Quote.

Sincerely,


Maurice A. Griffin
Acting Director

MAG: REG

c: A. Davis
K. Anderson-Thomas

⁵ RFP 15-X-23520 had a Proposal Submission Date of June 25, 2014. Therefore, it appears Dublin Scrap Metal submitted the June 11, 2014 *Ownership Disclosure Form* in connection with that procurement.