



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
PROCUREMENT BUREAU
33 WEST STATE STREET
P. O. BOX 039
TRENTON, NEW JERSEY 08625-0039
<https://www.njstart.gov>

PHILIP D. MURPHY
Governor

ELIZABETH MAHER MUOIO
State Treasurer

SHEILA Y. OLIVER
Lt. Governor

MAURICE A. GRIFFIN
Acting Director

March 2, 2021

Via Electronic Mail Only pinny@unitedsalesusa.com

Pinny Ziegler, Bid Director
United Sales USA Corp
185 30th Street
Brooklyn, NY 11232

Re: I/M/O Bid Solicitation #21DPP00594 United Sales USA Corp.
Protest of Notice of Intent to Award
T2432 Recycled Paper: Napkins, Towels, Toilet Tissue for Distribution and Support Services - REBID

Dear Ms. Ziegler:

This final agency decision is in response to a letter email received by the Division of Purchase and Property's (Division) Hearing Unit from United Sales USA Corp. (United) on February 22, 2021, protesting the Procurement Bureau's (Bureau) February 8, 2021, Notice of Intent to Award letter (NOI) issued for Bid Solicitation #21DPP00594 / T2432 Recycled Paper: Napkins, Towels, Toilet Tissue for Distribution and Support Services - REBID (Bid Solicitation).

By way of background, on November 16, 2020, the Bureau issued the Bid Solicitation on behalf of State of New Jersey, Department of the Treasury, Distribution and Support Services (DSS). The purpose of the Bid Solicitation was to solicit Quotes for recycled toilet tissue. Bid Solicitation § 1.1 *Purpose and Intent*. It is the State's intent to award a Master Blanket Purchase Order (Blanket P.O.) to the responsible Vendor {Bidder} whose Quote, conforming to the Bid Solicitation, is most advantageous to the State, price and other factors considered. Ibid.

A review of this Bid Solicitation reveals that the procurement was designated as a full Small Business Set-Aside in accordance with N.J.S.A. 52:32-17 et seq., commonly known as the Set-Aside Act for Small Businesses, Female Businesses, and Minority Businesses. Accordingly, the Bid Solicitation alerted Vendors {Bidders} to the requirement that they must be registered as Small Business Enterprise as of the Quote opening date to be eligible for a Blanket P.O award.

Pursuant to the provisions of N.J.S.A. 52:32-17 and N.J.A.C. 17:13 this is a full Set-Aside Blanket P.O. for **Category I, II and III** for Small Businesses. The Vendor {Bidder} must be registered as a qualifying small business with the Division of Revenue and Enterprise Services, Small Business Registration and M/WBE Certification Services Unit by the date the Quote is received and opened.

[Bid Solicitation Section 4.4.1.4 *Small Business Set-Aside Blanket P.O.*]

On December 22, 2020, the Division's Proposal Review Unit opened sixteen (16) Quotes submitted by the submission deadline of 2:00 p.m. eastern time. After conducting a preliminary review of the Quotes submitted, those Quotes which conformed to the mandatory requirements for Quote submission were forwarded to the Bureau for review and evaluation consistent with the requirements of Bid Solicitation Section 6.7.1. After completing its review and evaluation of the Quotes, on February 5, 2021, the Bureau completed its Recommendation Report which recommended that a Blanket P.O. be awarded to B&E Supply as the Vendor {Bidder} who's Quote was most advantageous to the State, price and other factors considered. That Recommendation Report additionally states that the Bureau found that the Quote submitted by United was non-responsive to the mandatory requirements of the Bid Solicitation because United was not registered as a Small Business Enterprise (SBE) as of the Quote opening date and therefore, it was not eligible for a Blanket P.O. award. On February 8, 2021, the Bureau issued the NOI advising all Vendors {Bidders} that it was the State's intent to award a Blanket P.O. to B&E Supply.

On February 22, 2021, United submitted a protest challenging the Bureau's determination that it was not eligible for a Blanket P.O. award because it was not registered as a Small Business Enterprise (SBE). Specifically, United states:

I am writing a letter of protest regarding the results of the bid.
United Sales USA Corp, came in the lowest from all the vendors, and we are a certified small business enterprise, if you could please explain why we did not get the awarded.

In consideration of United's protest, I have reviewed the record of this procurement, including the Bid Solicitation, United's Quote and protest, 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 final agency decision on the merits of the protest.

As noted above, this Bid Solicitation was designated as a full Small Business Set-Aside in accordance with N.J.S.A. 52:32-17 et seq. The governing law states in part:


When a contract or portion thereof has been designated as a set-aside, invitations for bids shall be confined to businesses designated by the department [Division of Revenue and Enterprise Services (DORES)] as appropriate for the set-aside and bids from other bidders shall be rejected. The purchase, contract or expenditure of funds shall be awarded among the businesses, considering formality with specifications and terms, in accordance with the statutes and rules governing purchases by the contracting agency.

[N.J.S.A. 52:32-25.]

Further, N.J.S.A. 52:32-24 requires that DORES "establish a procedure for annually reviewing the lists and determining whether the businesses on the lists shall continue to be designated as small businesses, minority businesses and female businesses." N.J.S.A. 52:32-24(c). Accordingly, N.J.A.C. 17:13-3.1(e) provides that designated small businesses, minority businesses and female businesses, shall submit, prior to the anniversary of the registration notice, a verification statement attesting that there has been no change in ownership, revenue eligibility, or control of the business. N.J.A.C. 17-3.1(e). This verification statement is also referred to as the Annual Verification Form. If the Annual Verification Form is not submitted by the anniversary date of the registration notice, the registration will lapse and the business designation will be deemed revoked. N.J.A.C. 17-3.1(e)(1). Notably, the Annual Verification Form advises companies that the form must be submitted in order to maintain an active status.

Consistent with the requirements of the governing statutes, regulations and the Bid Solicitation, bidding here was limited to those entities certified as Small Business Enterprise by the DORES by the Quote opening date.

A review of the United's submitted Quote reveals that United was approved as an SBE on July 8, 2018. A copy of the certification is shown below. While the certification notes an expiration date of July 6, 2021, it also alerts United to the requirement that it must complete the annual verification in order to maintain the SBE certification status.



State of New Jersey
DEPARTMENT OF THE TREASURY
DIVISION OF REVENUE & ENTERPRISE SERVICES
P.O. BOX 026
TRENTON, NJ 08625-034
PHONE: 609-292-2146 FAX: 609-984-6679

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Li. Governor


FORD M. SCUDDER
Acting State Treasurer

APPROVED
under the
Small Business Set-Aside Act and Minority and Women Certification Program

This certificate acknowledges United Sales Usa Corp as a Category 2 approved Small Business Enterprise that has met the criteria established by N.J.A.C. 17:13 and/or 17:14.

This registration will remain in effect for three years. Annually the business must submit, not more than 60 days prior to the anniversary of the registration notice, an annual verification statement in which it shall attest that there is no change in the ownership, revenue eligibility or control of that business.

If the business fails to submit the annual verification statement by the anniversary date, the SBE registration will lapse and the business SBE status will be revoked in the New Jersey Selective Assistance Vendor information (NJSAVI) database that lists registered small businesses. If the business seeks to be registered again, it will have to reapply and complete the New SBE online registration located at:
www.njportal.com/DOR/SBERegistry/.



Peter Lowicki
Peter Lowicki
Deputy Director

Issued: 7/6/2018
Certification Number: A0072-85

Expiration: 7/6/2021

On May 7, 2019, DORES sent an email to United, reminding United to complete the annual verification form and submit the form by July 9, 2019. See screenshot below.

From: [Treas-Notices_SMBWE](#)
To: [Treas-Notices_SMBWE](#)
Subject: Registration - Verification -- Ending Year -- 1 Application Id: 1064925 EMA=> info@unitedsalesusa.com
Date: Tuesday, May 7, 2019 12:20:07 AM

05/07/2019

Dear Registered Small Business Owner:

We hope you have had a successful year. This notice is a reminder that your SBE Annual Verification Form is due on 07/06/2019.

Please complete the new online SBE Annual Verification Form, which is available at:

www.njportal.com/DOR/SBERegistry/

This form should be completed and submitted online to us not more than 60 days prior to the anniversary date of issue. There is no fee required to accompany this completed form.

If you fail to submit the annual verification form by 07/06/2019, your SBE registration will be revoked. The business will be removed from the database of state registered small businesses. After revocation, it will be necessary for your firm to reapply and pay the non-refundable \$100 application fee to obtain approved small business status.

Sincerely,

Small Business Registration and M/WBE/VOB/DVOB Certification Services Unit
New Jersey Department of the Treasury
Division of Revenue and Enterprise Services
(609)292-2146

IMPORTANT NOTE: Please do not respond to this email. Responding to this email will result in a non-response status.

It appears that United did not complete the annual verification form; and therefore, on October 4, 2019, prior to the Quote opening date, United's SBE certification was revoked. United's **NJSTART** Vendor Profile further reveals that the certification was revoked on October 4, 2019.

Category: Certification: Small Business Enterprise
Description: This Certification status is updated daily. If you have questions regarding Small Business eligibility, please see the following link:
Revoked or Expired
Notes:
EXPIRATION DATE 2021-07-06, REVOCATION DATE 2019-10-04

Unfortunately, due to the revocation, at the time of Quote opening, United was not certified as a SBE; and therefore, was not eligible for this Small Business Set-Aside Blanket P.O award. Accordingly, the Bureau properly determined that United was ineligible for the contract award.

The Division encourages competition and appreciates the time and effort put forth by United in preparing and submitting a Quote, and while I am sure this was an oversight on the part of United, the Division does not have the power to waive the statutory requirements for eligibility to bid on a Small Business Set Aside contract. In light of the findings set forth above, I have no choice but to uphold the Bureau's determination to award Master Blanket P.O. in the accordance with the February 8, 2020 NOI.

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. I encourage United to log into **NJSTART** to select any and all commodity codes for procurements it may be interested in submitting a

Quote for so that it may receive notification of future bidding opportunities. This is my final agency decision on this matter.

Sincerely,



Maurice A. Griffin
Acting Director

MAG: RUD

c: J. Kerchner
K. Thomas
G. Gerstenacker
S. Brandbergh