



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR  
33 WEST STATE STREET

P. O. BOX 039  
TRENTON, NEW JERSEY 08625-0039

<https://www.njstart.gov>  
Telephone (609) 292-4886 / Facsimile (609) 984-2575

ELIZABETH MAHER MUOIO  
*State Treasurer*

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*Acting Director*

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*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

May 8, 2020

Via Email Only [chet.riddick@alphaprosol.com](mailto:chet.riddick@alphaprosol.com)

Chester Riddick  
Alpha Professional Solutions, Inc.  
4950 Parkside Avenue, Suite 502  
Philadelphia, PA, 19131

Re: I/M/O Bid Solicitation #19DPP00408 Alpha Professional Solutions, Inc.  
Protest of Notice of Proposal Rejection  
T2432 Recycled Paper, Napkins, Towels, Toilet Tissue for Distribution and Support Services

Dear Mr. Riddick:

This letter is in response to your correspondence of May 4, 2020, on behalf of Alpha Professional Solutions, Inc., (Alpha) which was received by the Division of Purchase and Property's (Division) Hearing Unit. In that email, Alpha protests the Notice of Proposal Rejection issued by the Division's Proposal Review Unit for Bid Solicitation #19DPP00408 – T2432 Recycled Paper, Napkins, Towels, Toilet Tissue for Distribution and Support Services (Bid Solicitation). The record of this procurement reveals that Alpha's Quote was rejected for failing to submit the *Ownership Disclosure Form* with its Quote.

By way of background, on February 27, 2020, the Division's Procurement Bureau ("Bureau") issued the Bid Solicitation on behalf of the New Jersey Department of the Treasury, Distribution and Support Services (DSS). The purpose of this Bid Solicitation is to solicit Quotes for various recycled janitorial and dietary paper products. Bid Solicitation § 1.1 *Purpose and Intent*. It is the State's intent to award Master Blanket Purchase Orders (Blanket P.O.s) to the responsible Vendors {Bidders} whose Quotes, conforming to this Bid Solicitation are most advantageous to the State, price and other factors considered. Ibid.

On May 1, 2020, the Division's Proposal Review Unit opened the Quotes received by the submission deadline of 2:00 pm eastern time. After conducting a review of the Quotes received, the Division's Proposal Review Unit issued a Notice of Proposal Rejection to Alpha for failure to submit the *Ownership Disclosure Form* with its Quote.

In response to the Notice of Proposal Rejection, on May 4, 2020, Alpha wrote to the Division's Hearing Unit stating in part:

In accordance with N.J.A.C. 17:12-3.3 Protest Procedures, [Alpha] is submitting our protest to the finding in the rejection letter received May 1, 2020 via email. [Alpha's] company policy when bids are submitted online

is to screen print all online screens requiring input and submission. Screen prints were made of each online screen of the NJSTART online bid quote system prior to submission.

Enclosed, please find a copy of the screen print image for the "Files collection section" of the NJSTART bid quote system. The screen image is absolute proof of what was submitted. After attaching all files, you will notice that an error message was displayed at the top of the screen image page that the "Terms & Conditions" section was not acknowledged. We then selected the "Terms & Conditions" header and completed that section. We then submitted our bid quote 00004198 to T2532. All required documents were submitted supporting our quote as evidence in the attached screen print of the NJSTART bid quote system. [Alpha] would like for our bid to be considered and approved.

Therefore, we are protesting the State of New Jersey Department of the Treasure Division of Purchase and Property Notice of Proposal Rejection letter indicating "missing required RFP certifications, forms and attachments, noted: Ownership Disclosure Form was omitted". All files were submitted as required to bid specifications. Also, as required, we request an opportunity for an in-person presentation only if you find it necessary not to accept our reason for protest.

In consideration of Alpha's protest, I have reviewed the record of this procurement, including the Bid Solicitation, Alpha's submitted Quote and 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 Alpha. I set forth herein my final agency decision.

With respect to ownership, the New Jersey Legislature, in implementing N.J.S.A. 52:25-24.2, 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 states in pertinent part:

No corporation, partnership, or limited liability company shall be awarded any [Blanket P.O.] nor shall any agreement be entered into for the performance of any work or the furnishing of any materials or supplies, the cost of which is to be paid with or out of any public funds, by the State, or any county, municipality or school district, or any subsidiary or agency of the State, or of any county, municipality or school district, or by any authority, board, or commission which exercises governmental functions, unless prior to the receipt of the bid or accompanying the bid, of said corporation, said partnership, or said limited liability company there is submitted a statement setting forth the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. If one or more such stockholder or partner or member is itself a corporation or partnership or limited liability company, the stockholders holding 10 percent or more of that corporation's stock, or the individual partners owning 10 percent or greater interest in that partnership, or the

members owning 10 percent or greater interest in that limited liability company, as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member, exceeding the 10 percent ownership criteria established in this act, has been listed.

Further, 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 shall<sup>1</sup> 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;

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

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.

The subject solicitation was comprised of the Bid Solicitation, 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* which states in pertinent part:

Pursuant to N.J.S.A. 52:25-24.2, in the event the Vendor {Bidder} is a corporation, partnership or limited liability company, the Vendor {Bidder} must complete an Ownership Disclosure Form.

A current completed Ownership Disclosure Form must be received prior to or accompany the submitted Quote. 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

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<sup>1</sup> "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*.

more than six (6) months prior to the Quote submission deadline for this procurement. If any ownership change has occurred within the last six (6) months, a new Ownership Disclosure Form must be completed, signed and submitted with the Quote.

In the alternative, to comply with this section, a Vendor {Bidder} with any direct or indirect parent entity which is publicly traded may submit the name and address of each publicly traded entity and the name and address of each person that holds a 10 percent or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent, and, if there is any person that holds a 10 percent or greater beneficial interest, also shall submit links to the websites containing the last annual filings with the federal Securities and Exchange Commission or the foreign equivalent and the relevant page numbers of the filings that contain the information on each person that holds a 10 percent or greater beneficial interest. N.J.S.A. 52:25-24.2.

Vendors {Bidders} using **NJSTART** to submit a Quote shall make the appropriate certification on the “Maintain Terms and Categories” Tab within its profile by checking the applicable box and, if required, completing and attaching the shortened Ownership Disclosure Form. Vendors {Bidders} not using **NJSTART** to submit a Quote must complete the full Ownership Disclosure Form located on the [Division’s website](#).

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. See screenshot below.

	<b>STATE OF NEW JERSEY</b> <b>DEPARTMENT OF THE TREASURY</b> <b>DIVISION OF PURCHASE AND PROPERTY</b> 33 WEST STATE STREET, P.O. BOX 230 TRENTON, NEW JERSEY 08625-0230
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**OWNERSHIP DISCLOSURE FORM**

**BID SOLICITATION #:** 19DPP00408      **VENDOR {BIDDER}:** \_\_\_\_\_

**ALL PARTIES ENTERING INTO A CONTRACT WITH THE STATE ARE REQUIRED TO PROVIDE THE INFORMATION REQUESTED PURSUANT TO N.J.S.A. 52:25-24.2.**  
**PLEASE NOTE THAT IF THE VENDOR/BIDDER IS A NON-PROFIT ENTITY, THIS FORM IS NOT REQUIRED.**

**PART 1**

Are there any individuals, partners, members, stockholders, corporations, partnerships, or limited liability companies owning a 10% or greater interest in the Vendor {Bidder}?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
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If you answered, “YES” above, you must disclose the following: (a) the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class; (b) all individual partners in the partnership who own a 10 percent or greater interest therein; or, (c) all members in the limited liability company who own a 10 percent or greater interest therein.

<b>NAME</b>	_____
<b>ADDRESS 1</b>	_____
<b>ADDRESS 2</b>	_____
<b>CITY</b>	_____ <b>STATE</b> _____ <b>ZIP</b> _____

As an alternative to the submission of the *Ownership Disclosure Form*, as noted in Bid Solicitation Section 4.4.1.2.1 above, Vendors {Bidders} using *NJSTART* to submit a Quote are required to make the appropriate certification regarding ownership disclosure on the “Maintain Terms and Categories” Tab within its profile. With respect to ownership, Vendors {Bidders} are able to select one of the following descriptors:

**Category: Ownership Disclosure**

**Description:** N.J.S.A. 52:25-24.2 requires disclosure of the names and addresses of those individuals, partnerships and/or corporations owning a 10% or greater interest in the bidding entity ("interest owners"). Further, if any of these interest owners is itself a partnership or corporation, you must disclose the names and addresses of the interest owners of that partnership or corporation.

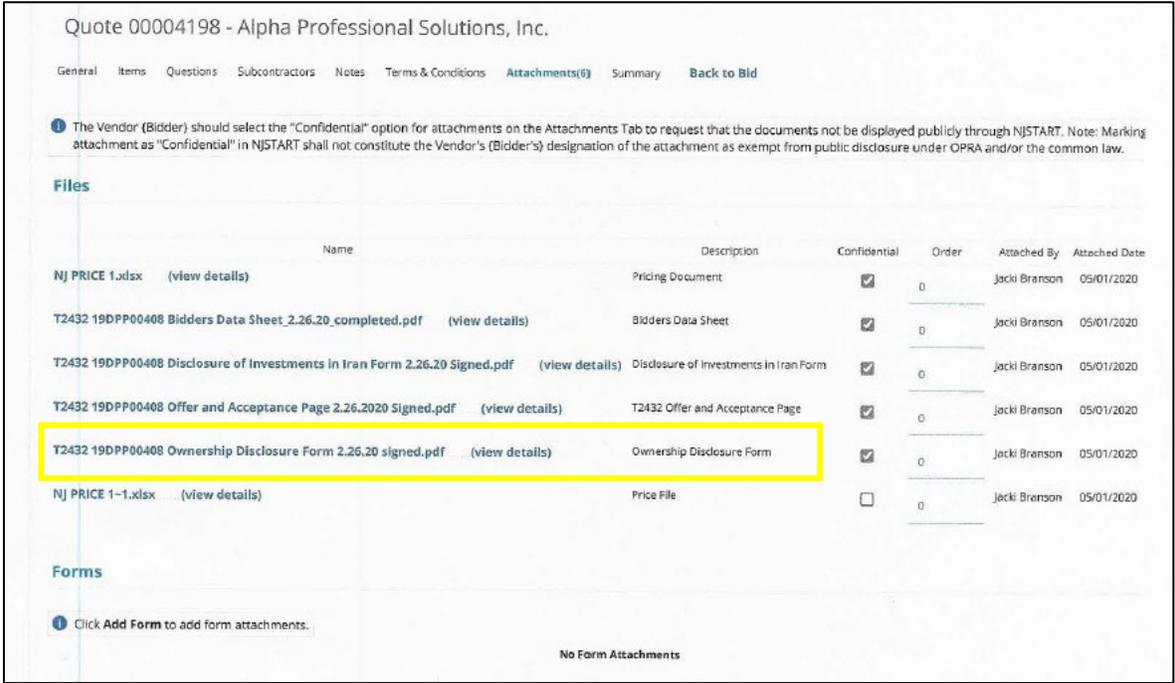
Please select at most one category value

Select

- The bidder is a non-profit entity and is exempt from the ownership disclosure requirement. See Disclosure of Non-Profit Officers and Directors below. (No Ownership Disclosure form is required.)
- There are no individuals, partnerships or corporations with a 10% or greater interest in the bidding entity, therefore the bidder is exempt from the ownership disclosure requirement. (No Ownership Disclosure form is required.)
- Neither statement is applicable. A current, true and complete Statement of Bidder Ownership on the attached form has been or will be uploaded to the vendor profile prior to the submission deadline and is intended to accompany the bidder's submission.

Alpha did not complete the Ownership Disclosure category in its *NJSTART* Vendor Profile prior to the Quote opening date, nor did it complete and upload the *Ownership Disclosure Form* its Vendor Profile within *NJSTART*, prior to the Quote opening date.

In the protest, Alpha alleges that it uploaded the *Ownership Disclosure Form* with its submitted Quote and included the following screenshot as proof of its submission the *Ownership Disclosure Form*.



In connection with the review of this protest, the Hearing Unit reviewed each of the documents attached to Alpha’s submitted Quote. While one of the attached documents does have a file name indicative of an *Ownership Disclosure Form* being submitted, a review of the attachment reveals that document is not

the *Ownership Disclosure Form*. Rather, as shown in the screenshot below, Alpha uploaded the *Disclosure of Investigations and Other Actions Involving the Vendor {Bidder} Form*.

STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY  
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33 WEST STATE STREET, P.O. BOX 230  
TRENTON, NEW JERSEY 08625-0230

**DISCLOSURE OF INVESTIGATIONS AND OTHER ACTIONS INVOLVING THE VENDOR FORM**

BID SOLICITATION #: 19DPP00408 VENDOR: Alpha Professional Solutions, Inc.

**PART 1**  
PLEASE LIST ALL OFFICERS/DIRECTORS OF THE VENDOR BELOW.  
IN PART 2 OF THIS FORM, YOU WILL BE REQUIRED TO ANSWER QUESTIONS REGARDING THESE INDIVIDUALS.

**OFFICERS/DIRECTORS**

NAME	Terrill L. Brown		
TITLE	EVP/ Secy./ COO		
ADDRESS 1	3146 W. Master Street		
ADDRESS 2			
CITY	Philadelphia	STATE	PA ZIP 19121

Although Alpha may have meant to upload the *Ownership Disclosure Form*, it did not do so.

The *NJSTART* system does not prevent a Vendor {Bidder} from submitting a Quote without all of the required forms and documents attached as mandated by the specifications. The responsibility for ensuring that all necessary forms and other submittals are properly completed and uploaded into *NJSTART* necessarily and appropriately rests solely with the Vendor {Bidder}; as such the Bid Solicitation advised:

The Vendor {Bidder} assumes sole responsibility for the complete effort required in submitting a Quote in response to this Bid Solicitation. No special consideration will be given after Quotes are opened because of a Vendor's {Bidder's} failure to be knowledgeable as to all of the requirements of this Bid Solicitation.

[Bid Solicitation § 1.4.2 *Vendor {Bidder} Responsibility*.]

To assist Vendors {Bidders} in completing and uploading Quotes, as well as to ensure that Quotes have been properly submitted, the Division provides Quick Reference Guides on its website (<https://www.state.nj.us/treasury/purchase/njstart/vendor.shtml#tabs-3>.) One of those guides is entitled "How to Review a Submitted Quote," and provides Vendors {Bidders} with step-by-step instructions and screenshots, on how to review those documents uploaded and submitted as part of a Quote.

Here, unfortunately, Alpha submitted a Quote without the *Ownership Disclosure Form* attached. 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. Unfortunately, Alpha did not comply with any of the options available to it for the submission of ownership information. Accordingly, Alpha's Quote was properly rejected by the Division's Proposal Review Unit for failure to submit the mandatory *Ownership Disclosure Form* with its Quote.

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 Proposal. However, in light of the findings set forth above, I have no choice but to deny your request for eligibility to participate in the competition for the subject contract.

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](http://www.njstart.gov). This is my final agency decision on this matter.

Sincerely,



Rachel U. Doobrajh  
Acting Chief Hearing Officer

c: J. Kerchner  
K. Thomas  
G. Gerstenacker  
S. Brandbergh  
D. Rodriguez  
A. Nelson