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ENVIRONMENTAL PROTECTION

SITE REMEDIATION AND WASTE MANAGEMENT PROGRAM

Notice of Administrative Corrections

Solid Waste Utility Regulations

N.J.A.C. 7:26H-6 Appendix A

Take notice that the Department of Environmental Protection (Department) is making administrative corrections to its Solid Waste Utility Regulations, N.J.A.C. 7:26H, to reflect updates of statutory requirements reflected in the rules. Particularly, the Department is correcting references to statutory requirements in the Appendix to N.J.A.C. 7:26H-6, Uniform Bid Specifications for Municipal Solid Waste Collection Contracts (Appendix A). The Department is additionally correcting typographical errors in Appendix A.

N.J.A.C. 7:26H-6 sets forth the Department's rules regarding uniform bid specifications for municipal solid waste collection contracts. The rules require every municipality that contracts for solid waste collection services to solicit and accept bid proposals and award contracts in conformance with the Local Public Contracts Law (LPCL), N.J.S.A. 40A:11-1 et seq., and the bid specifications described therein. Every municipality or contracting unit choosing to contract for solid waste collection services must prepare bid packages for prospective bidders that conform to a form that is included in the rules at N.J.A.C. 7:26H-6 Appendix A (see 39 N.J.R. 4477(a)). In addition to referencing statutory requirements found in the Local Public Contracts

Law, Appendix A additionally summarizes other statutory requirements applicable to public bidding.

The Department is amending N.J.A.C. 7:26H-6 Appendix A to update and correct references to statutory bidding requirements as summarized below.

N.J.A.C. 7:26H-6 Appendix A identifies at two points the documents that must be submitted by bidders. Particularly, documents to be submitted by all bidders are identified at N.J.A.C. 7:26H-6 Appendix A, 1.4. Similarly, at Section 6 of N.J.A.C. 7:26H-6 Appendix A, a checklist of required bidding documents that must be provided as part of a public bid for a municipal solid waste collection contract is identified. The Department is removing reference at N.J.A.C. 7:26H-6 Appendix A, 1.4(8) and at 6.1(h) to the bidder's Business Registration Certificate issued by the New Jersey Division of Revenue as being one of the documents required to be submitted by all bidders at the time of bidding. As reflected at N.J.S.A. 52:32-44(b), the Business Registration Certificate is not required to be submitted with the bid, but is only required to be provided prior to the time a contract, purchase order, or other contracting document is awarded or authorized. Reference to the actual timing of this statutory requirement is being relocated to N.J.A.C. 7:26H-6 Appendix A at 3.5, Compliance. As part of the correction of the list of required documents at the time of bidding, at N.J.A.C. 7:26H-6 Appendix A, 1.4(8) and 6.1(h) the Department is adding a reference to the certification regarding investment activities in Iran required to be submitted by all bidders in accordance with N.J.S.A. 52:32-58.

Bidders on public contracts may take a variety of forms including corporations, partnerships, and limited liability companies, with all required to satisfy statutory

requirements. To reflect statutory amendments specifically requiring limited liability companies to submit ownership information in order to be eligible for public contracts (see P.L. 2016, c. 43, amending N.J.S.A. 52:25-24.2), N.J.A.C. 7:26H-6 Appendix A, 3.1 C, is updated to add reference to limited liability companies as potential bidders. N.J.A.C. 7:26H-6 Appendix A, 3.1 D is additionally being amended for grammatical reasons.

N.J.A.C. 7:26H-6 Appendix A, 5.13 B is amended to reflect a recent statutory amendment to the Local Public Contracts Law regarding the period within which payment of amounts due under a public contract must be made (see P.L. 2018, c. 127, effective February 1, 2019).

At N.J.A.C. 7:26H-6 Appendix A, 6.3 13, all bidders were required to supply the most recent annual report or a financial statement containing specified minimum information if the bidder has not been required to file an annual report. This reference is amended to reflect the current Local Public Contracts Law at N.J.S.A. 40A:11-13(f), which prohibits any bidder being required to submit a financial statement if either a guarantee, by certified check, cashier's check, or bid bond, or a surety company certificate is also required to be furnished by the bidder, unless such a financial statement is Federally required as a condition upon the awarding of a monetary grant to be used for the purchase, contract or agreement.

Full text of the corrected rules follows (additions indicated in boldface **thus**; deletions indicated in braces {thus}):

(Agency Note: The existing text of N.J.A.C. 7:26H-6 Appendix A includes text in all CAP font surrounded by brackets ([EXAMPLE]) to reflect where entities utilizing the provided forms are

to insert information indicated within the brackets. The brackets and the information contained within the brackets are not intended to be changed in any way through this notice.)

SUBCHAPTER 6. UNIFORM BID SPECIFICATIONS FOR MUNICIPAL SOLID WASTE COLLECTION
CONTRACTS

APPENDIX A

WORDING OF THE UNIFORM BID SPECIFICATIONS

(a) The requirements concerning the wording of the uniform bid specifications are as follows:

1. (No change.)
2. The forms provided are mandatory, all other forms shall be provided by the contracting unit in accordance with the provisions of this subchapter.

[CONTRACTING UNIT]

UNIFORM BID SPECIFICATIONS

SOLID WASTE

[AND RECYCLABLE MATERIALS]

COLLECTION SERVICE

1. INSTRUCTIONS TO BIDDERS

1.1. – 1.3 (No change.)

1.4. DOCUMENTS TO BE SUBMITTED

The following documents shall be submitted by every bidder at the time and date specified in the public notice to prospective bidders:

1. A photocopy of bidder's certificate of public convenience and necessity and an approval letter issued in conformance with N.J.S.A. 13:1E-126 **et seq.**

2. – 7. (No change.)

{8. A Business Registration Certificate (BRC).}

8. Certification regarding investment activities in Iran, in accordance with N.J.S.A. 52:32-58.

All of the foregoing shall be submitted in accordance with the instructions hereinafter contained. The division of the Bid Specifications into parts is merely for convenience and ready reference; all parts of the Bid Specifications constitute a single document.

{2.} **2. DEFINITIONS**

(No change.)

3. BID SUBMISSION REQUIREMENTS

3.1. BID PROPOSAL

A. – B. (No change.)

C. Each bidder shall sign, where applicable, all bid submissions as follows:

1. For a corporation **or limited liability company**, by a principal executive officer;

2. – 3. (No change.)

D. The bid proposal contains option bids. The [GOVERNING BODY] may, at its discretion, award the contract to the bidder whose aggregate bid price for the chosen option, or any

combination of options is the lowest responsible bidder; provided, however, the **[GOVERNING BODY]** shall not award the contract based on the bid price for separate options.

E. (No change.)

3.2. – 3.4 (No change.)

3.5. COMPLIANCE

The bidder shall be familiar with and comply with all applicable local, state and federal laws and regulations in the submission of the Bid Proposal and, if the bidder is awarded the contract, in the performance of the contract, **including, but not limited to, provision of the successful bidder's Business Registration Certificate issued by the New Jersey Division of Revenue prior to the time a contract, purchase order, or other contracting document is awarded or authorized in accordance with N.J.S.A. 52:32-44(b).**

3.6. (No change.)

3.7. NO ASSIGNMENT OF BID

The bidder may not assign, sell, transfer or otherwise dispose of the Bid or any portion thereof or any right or interest therein. This section is not intended to limit the ability of the successful bidder to assign or otherwise dispose of its duties and obligations under the contract provided that the [CONTRACTING UNIT] agrees to the assignment or other disposition. No such assignment {of} **or** disposition shall become effective without the written approval of the New Jersey Department of Environmental Protection.

4. (No change.)

5. WORK SPECIFICATIONS

...

5.1. – 5.12. (No change.)

5.13. INVOICE AND PAYMENT PROCEDURE

A. (No change.)

B. The [CONTRACTING UNIT] shall pay all invoices within {30} **60** days of receipt. The [CONTRACTING UNIT] will not be obligated to pay a defective invoice until the defect is cured by the Contractor. The [CONTRACTING UNIT] shall have {30} **60** days from the date of receipt of the corrected invoice to make payment.

C. – E. (No change.)

5.14. – 5.18 (No change.)

6. BIDDING DOCUMENTS

6.1. BIDDING DOCUMENTS CHECKLIST

(a) Photo-copies of bidder's certificate
of public convenience and necessity
and an approval letter issued in
conformance with N.J.S.A. 13:1E-126 **et seq.**

(b) – (g) (No change.)

(h) {Business Registration Certificate
(BRC) issued by the New Jersey
Division of Revenue} **Certification regarding
investment activities in Iran in accordance
with N.J.S.A. 52:32-58.**

Name of Firm or Individual

Title

Signature

Date

6.2. (No change.)

6.3. STATEMENT OF BIDDER'S QUALIFICATIONS, EXPERIENCE AND FINANCIAL ABILITY

AFFIDAVIT (No change.)

QUESTIONNAIRE

This questionnaire must be filled out and submitted [with] as part of the Bid Proposal for solid waste collection and disposal for the [CONTRACTING UNIT]. Failure to complete this form or to provide any of the information required herein shall result in rejection of the Bid Proposal.

Answers should be typewritten or printed neatly in black or blue ink. Answers must be legible. Any answer that is illegible or unreadable will be considered incomplete. If additional space is required, the bidder shall add additional sheets and identify clearly the question being answered.

1. – 12. (No change.)

13. Supply the most recent Annual Report, as required to be filed with the Department of Environmental Protection. {If the company has recently entered the collection business and has not been required to file an annual report, a financial statement for the most recent year, which includes at a minimum the bidder's assets, shall be submitted, or a financial statement for the most recent year from the bidder's parent company shall be submitted, provided the parent company's financial statement lists the assets of the bidder's company separately.} **In accordance with N.J.S.A. 40A:11-13(f), the bidder shall additionally submit a financial statement if a financial statement is Federally required as a condition upon the awarding of a monetary grant to be used for the purchase, contract or agreement.**

14. (No change.)

6.4. – 6.8.2. (No change.)

7. (No change.)