



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR

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*Acting Director*

May 14, 2024

*Via Electronic Mail Only joseph@globalpointinc.com*

Joseph Daka  
Global Point, Inc.  
850 Carolier Lane  
North Brunswick, NJ 08902

Re: I/M/O Bid Solicitation #23DPP00890 Global Point Inc.  
Protest of Notice of Intent to Award  
T3127 – NJDEP Regulatory Services Portal (RSP) and Enterprise Systems

Dear Mr. Daka:

This final agency decision is in response to your letter dated April 22, 2024, on behalf of Global Point Inc. (Global Point) received by the Division of Purchase and Property's (Division) Hearing Unit on April 23, 2024 (Protest). In that letter, Global Point protests the Procurement Bureau's (Bureau) April 9, 2024, Notice of Intent to Award letter (NOI) issued for Bid Solicitation #203PP00890 - NJDEP Regulatory Services Portal (RSP) and Enterprise Systems (Bid Solicitation).

By way of background, on May 1, 2023, the Bureau issued the Bid Solicitation on behalf of the State of New Jersey, Department of Environmental Protection (NJDEP). The purpose of the Bid Solicitation was to solicit Quotes for development services for NJDEP's Regulatory Services Portal (RSP), and NJDEP's modernization efforts, migrating the existing New Jersey Environmental Management System (NJEMS) to the Pega platform. Bid Solicitation Section 1.1, *Purpose and Intent*.

Bid Solicitation Section 1.2, *Background*, cautioned Bidders that this Bid Solicitation addressed the State's current requirements, and Bidders should not rely upon or use data from any prior Master Blanket Purchase Order (Blanket P.O. or Contract) or Bid Solicitation in creating its Quote response. "It is the intent of the State to award a Contract to that responsible Bidder whose Quote, conforming to this Bid Solicitation is most advantageous to the State of New Jersey (State), price and other factors considered." Bid Solicitation Section 1.1, *Purpose and Intent*.

In accordance with Bid Solicitation Section 2.5, *Optional Pre-Quote Conference*, an optional Pre-Quote Conference was held on May 9, 2024, enabling all potential Bidders to review the Bid Solicitation and Quote submission procedures and requirements. Representatives from three (3) potential bidding entities attended, including Global Point and CGI Technologies and Solutions (CGI). In accordance with Bid Solicitation Section 1.3.1, *Electronic Question and Answer Period*, an electronic portal enabling the Bureau to receive questions electronically was available to all potential Bidders until May 16, 2023. Three

(3) Bid Amendments were issued for this Bid Solicitation, which provided revisions to the Bid Solicitation and responses to questions received from potential Bidders.

On June 28, 2023, the Division's Proposal Review Unit opened eight (8) Quotes. The PRU rejected the Quote submitted by Project Pals (Project Pals) for failing to include a Technical Quote pursuant to Bid Solicitation Section 3.13. The remaining seven (7) Quotes were deemed administratively complete by the PRU and released to the Bureau for further review and evaluation.

The Bureau determined that the Quote submitted by Global Point was non-responsive due to non-compliance with the mandatory requirement of the Bid Solicitation, and New Jersey law, by failing to properly disclose its ownership at the time of Quote opening. Recommendation Report at pgs. 2-3. Bidders Lorven, Tech Brains, and VGropu were also determined to be non-responsive for failing to submit a completed State of New Jersey Security Third-Party Information Security Questionnaire. *Ibid.* at 3. The Bureau found that the following Quotes met, and complied with, all the mandatory requirements of the Bid Solicitation:

1. CGI Technologies and Solutions (CGI)
2. Eclatprime Digital Inc. (Eclatprime)
3. Cardinal Technologies (Cardinal)

These three (3) Quotes were released to the Evaluation Committee in accordance with Bid Solicitation Section 8.9, *Evaluation Criteria*. The Committee was composed of three (3) voting members from the NJDEP, and one (1) from the Bureau, and one (1) non-voting member from the New Jersey Office of Homeland Security and Preparedness, and one (1) non-voting member from the Bureau. *Ibid.* at p. 6. The Committee was responsible for performing the technical evaluation of the responsive Quotes received based upon the evaluation criteria set forth in Bid Solicitation Section 8.9.1, *Technical Evaluation Criteria*, which stated in part:

- A. Personnel: The qualifications and experience of the Bidder's management, supervisory, and key personnel assigned to the Contract, including the candidates recommended for each of the positions/roles required;
- B. Experience of firm: The Bidder's documented experience in successfully completing Contract of a similar size and scope in relation to the work required by this Bid Solicitation; and
- C. Ability of firm to complete the Scope of Work based on its Technical Quote: The Bidder's demonstration in the Quote that the Bidder understands the requirements of the Scope of Work and presents an approach that would permit successful performance of the technical requirements of the Contract.

Prior to the public advertisement of the Bid Solicitation, in May 2023, representatives from NJDEP and the Bureau assigned relative weights for the three (3) Evaluation Criteria. Because the prior Bid Solicitation, 23DPP00797, was canceled for purposes unrelated to the Bid Solicitation or State-Supplied Price Sheet, and the assigned weights from the prior Bid Solicitation were not released, they were again utilized for 23DPP00890, and are as indicated on the timestamped score sheet shown below:

## QUOTE SCORE SHEET

21 JUL '22 9:28AM

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**BID SOLICITATION TITLE:** NJDEP Regulatory Services Portal (RSP) and Enterprise Systems

**BID SOLICITATION NO.:** 23DPP00797

**BIDDER NAME:** \_\_\_\_\_

**DATE SCORED:** \_\_\_\_\_

**SCORING LEGEND**

9 - 10    Excellent

7 - 8    Very Good

5 - 6    Good

3 - 4    Fair

1 - 2    Poor

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	EVALUATION CRITERIA	SCORE	WEIGHT	SUBTOTAL
A.	<b>Personnel:</b> The qualifications and experience of the Bidder's management, supervisory, and key personnel assigned to the Contract, including the candidates recommended for each of the positions/roles required;		70	
B.	<b>Experience of firm:</b> The Bidder's documented experience in successfully completing Contracts of a similar size and scope in relation to the work required by this Bid Solicitation; and		10	
C.	<b>Ability of firm to complete the Scope of Work based on its Technical Quote:</b> The Bidder's demonstration in the Quote that the Bidder understands the requirements of the Scope of Work and presents an approach that would permit successful performance of the technical requirements of the Contract.		20	
<b>TOTAL SCORE</b>			<b>100</b>	

NOTE: Each score must be a whole number, decimals and fractions are not permitted  
SCORE x WEIGHT = SUBTOTAL

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**EVALUATOR PRINTED NAME:** \_\_\_\_\_

**EVALUATOR SIGNATURE:** \_\_\_\_\_

The Committee members met on January 2, 2024, to review and consider the Quotes as a group. After the Committee meeting, each conducted an independent analysis of each of the three (3) responsive Quotes, and submitted scoring individually to the Bureau. The four (4) voting members assigned individual technical scores (1-10) for each of the three (3) Evaluation Criteria for each Quote based upon their independent analysis and Committee discussions. Evaluation Committee Report at p. 8. Assigned scores were multiplied by the criterion weight to produce a weighted score for each criterion.

Bidder	Total Criterion A (Max 2800)	Total Criterion B (Max 400)	Total Criterion C (Max 800)	Total Technical Score (Max 4000)	Total Technical Score (Max 4000)	Ranking
CGI Technologies	2450	340	660	3450	863	1
Eclatprime Digital	1120	160	300	1580	395	2
Cardinal Integrated Technologies	630	90	160	880	220	3

In accordance with Bid Solicitation Section 8.12, *Negotiation and Best and Final Offer (BAFO)*, the Bureau requested a BAFO from CGI on January 4, 2024. CGI provided the BAFO response as shown below:

Contractor	Original Price	BAFO Price	% Difference	Technical Ranking
CGI	\$8,500,000	\$8,500,000	0%	1

Having completed its evaluation of the Quotes received in response to the Bid Solicitation, on April 9, 2024, the Bureau issued the NOI advising all Bidders that it was the State's intent to award a Contract to CGI.

On April 23, 2023, prior to the close of the protest period, Global Point submitted the Protest, including a request for an in-person hearing, challenging the Division's decision to award the Contract to CGI. By way of summary, Global Point states that it believes CGI had an unfair advantage, and "we suspect someone from another vendor influenced the bid process, resulting in us not being given a fair chance." Specifically, Global Point alleges that:

1. A conflict of interest exists because a CGI employee's LinkedIn page states that he works as a consultant on behalf of NJDEP;
2. The Bureau did not respond following a July 15, 2023, email from Global Point requesting a update on the bid evaluation.

By way of remedy, Global Point states that it should now be permitted to modify its forms so it can be evaluated and considered for award.

NJDEP was provided with the opportunity to respond to the issues regarding Steve Tulo raised by Global Point in the Protest. On May 6, 2024, NJDEP responded to the Protest (Response), stating that Steve Tulo "does not work separately as a 'Senior Consultant' for NJDEP outside of a State-awarded contract like T3127. He is presently only performing work for NJDEP through a State-awarded contract as an employee for CGI, the awarded contract vendor for State Contracts G2024 (being reprocured as T3127) and G1005. Presently Steve is the CGI engagement manager for these 2 contracts."

First, with respect to Global Point's request for an in-person presentation as permitted by N.J.A.C. 17:12-3.3(e), "[t]he Director has sole discretion to determine if an in-person presentation by the protester is necessary to reach an informed decision on the matter(s) of the protest. In-person presentations are fact-finding for the benefit of the Director." Further, "[i]n cases where no in-person presentation is held, such review of the written record shall, in and of itself, constitute an informal hearing." N.J.A.C. 17:12-3.3(d). I have reviewed the record of this procurement, including the Bid Solicitation, the Quotes received, the Evaluation Committee Report, the Bureau's Recommendation Report, the relevant statutes, regulations, case law, and the protest submitted by Global Point. The issues raised in the protest were sufficiently clear such that a review of the record of this procurement 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 Global Point on the written record, as such an in-person hearing is not warranted. I set forth herein the Division's Final Agency Decision.

As a threshold issue, the New Jersey Department of the Treasury, Division of Purchase and Property, is regulated by its administrative rules found in Chapter 17. Specifically, the Division of Purchase and Property has the exclusive authority and duty to purchase all articles used or needed by the State and its using agencies unless otherwise specified in the State's statutes. N.J.S.A. 52:25-6. The Director is responsible to carry into effect and execute the provisions of Chapter 25 of Title 52 of the Revised Statutes

and is the only official with the authority to execute all contracts in the name of the State. N.J.S.A. 52:25-11. This includes all “purchases, contracts or agreements, the cost or contract price whereof is to be paid with or out of State funds shall, except as otherwise provided in this act, be made or awarded only after public advertisement for bids therefor, in the manner provided in this act.” N.J.S.A. 52:34-6. Thus, the procurement and maintenance of all State contracts resides exclusively with the Director of the Division of Purchase and Property.

New Jersey procurement law requires that “specifications and invitations for bids shall permit such full and free competition as is consistent with the procurement of supplies and services necessary to meet the requirements of the using agency. . . .” N.J.S.A. 52:34-12. This principle is based on the long-recognized “policy behind the competitive bidding statutes, i.e., assurance against favoritism, improvidence, extravagance and corruption in the bidding process.” Palamar Constr., Inc. v. Pennsauken, 196 N.J. Super. 241, 251 (App. Div. 1983) (citing Terminal Construction Co. v. Atlantic City Sewerage Auth., 67 N.J. 403, 410 (1975)). “These policies, in turn, are meant to ensure that all bidders are equally situated in their competition for the public contract.” Palamar, *supra*, 196 N.J. Super. At 251 (citing Hillside Twp. v. Sternin, 25 N.J. 317, 322 (1957)). “The conditions and specifications must apply equally to all prospective bidders. Otherwise, there is no common standard of competition.” *Id.* To challenge a specification under N.J.A.C. 17:12-3.2(b)(1)(ii), a bidder must provide the “specification(s) at issue and the specific grounds for challenging the cited specification(s), including all arguments, materials, or other documentation that may support the protester’s position that the specification should be changed. . . .”

The fact that eight separate and unique businesses were able to submit bids based on the scope of work contained in the Bid Solicitation, and that three of those businesses were evaluated for award<sup>1</sup> supports a strong inference with a high burden to overcome that the awarded vendor did not influence the development of the Bid Solicitation’s specifications, that the procurement process did not prohibit competition, or that the evaluation process outlined in the publicly-available Evaluation Committee report was influenced by an outside influence or erroneous in its final conclusion.

**I. There Was No Discrepancy In The Scoring Of The Quotes Which Requires That The Quotes Be Rescored Or The Cancellation Of The Procurement.**

**A. There is no evidence that the Evaluation Committee was influenced by an outside source.**

Global Point argues that the evaluation process suffered because “another vendor influenced the bid process, resulting in us not being given a fair chance.” Protest, p. 3. Questioning the legitimacy of the results of the evaluation process and award, Global Point requests that it be allowed to sign the forms now after Quote opening and bid evaluation and award, and that Global Point’s Quote be evaluated. *Id.*

With respect to the makeup of the Committee, N.J.S.A. 52:34-10.3(c) states in pertinent part that “[i]n all cases, persons appointed to an evaluation committee shall have the relevant experience necessary to evaluate the project.” The Division’s governing regulations state that “[m]embers of evaluation committees shall conduct evaluations of proposals objectively, impartially, and with propriety.” N.J.A.C. 17:12-2.7(a)(1). With that in mind, “the Director retains the discretion to reject proposed members, remove sitting members and add additional members to an evaluation committee.” *Id.* The Division should always be aware of the public’s interest in State procurements and possible conflicts of interest, and should take the appropriate actions to insulate the procurement process from those potential conflicts. See generally,

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<sup>1</sup> A review of the March 14, 2024, Recommendation Report shows the non-awarded bidders failed to receive an award for reasons unrelated to the reasons raised by Global Point, and for more mundane reasons like failing to include required documentation as outlined in the Bid Solicitation’s requirements.

Keyes Martin & Co. v. Director, Div. of Purch. & Prop., 99 N.J. 244, 260-64 (1985). Accordingly, the Division ensures that the individuals constituting the Committee have the relevant experience necessary to evaluate the project in accordance with N.J.S.A. 52:34-10.3, and seeks to avoid conflicts of interest in the procurement process.

Here, a review of the disclosures required by all members of the Evaluation Committee displays they had the requisite knowledge and experience to conduct an evaluation of the Quotes submitted, and none of them had any conflicts of interest that could have affected the public's confidence in the procurement process. The Evaluation Committee was comprised of members of affected departments and agencies together with representative(s) from the Division possessing a wide variety of skills across multiple disciplines and "the relevant experience necessary to evaluate the [Quotes]." N.J.S.A. 52:34-10.3(c). Importantly, none of the Committee members had any "personal, business, or financial interest in the subject matter of the Bid Solicitation", such that the procurement could be compromised by bias or favoritism. N.J.A.C. 17:12-2.7(a)(1).

A review of the bid documents, the Evaluation Committee Report, and the Recommendation Report also fail to show any signs of outside influence, or that any error occurred that tainted the evaluation and award process. Bid Solicitation Section 8.9 requires the Evaluation Committee to consider and assess both the price, technical criteria, and other factors during the evaluation process before making a recommendation to the Director. Accordingly, the members of the Evaluation Committee reviewed, discussed, and provided scoring based on the review of Quotes, including their independent judgment as well as the group discussion. Each committee member approached the process through their own experience and expertise, and reviewed the Quotes through their individual perspective. The group then discussed the Quotes, and each individual had an opportunity to present their observations. These observations were then captured in the Evaluation Committee report for any bidder or member of the public to review.

Based upon the foregoing, no member of the Evaluation Committee's scoring appears against or in favor of any specific bidder. As such, no reason exists to remand this matter to the Bureau for re-scoring.

## **II. There was no incumbent bias in the evaluation of the Quotes**

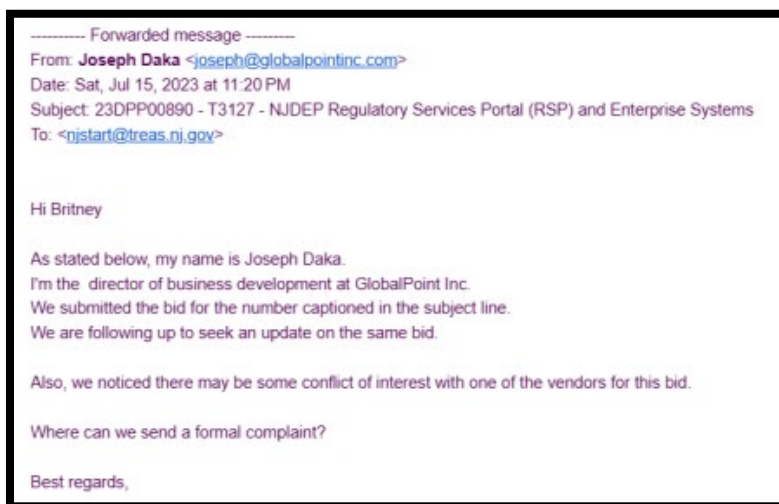
Global Point furthers its allegation of an incumbency bias with several arguments:

1. John Tulo's dual role as an advisor to the New Jersey Department of Environmental Protection and a product owner at CGI Technologies and Solutions gives CGI an unfair advantage due to his advanced knowledge of project requirements and potential conflicts of interest.
2. If John Tulo is involved in advising the New Jersey Department of Environmental Protection in IT, there is a concern that he may have shared information that could disadvantage other vendors like GlobalPoint Inc.
3. During the Pre Bid meeting, there was a perceived conflict of interest as John Tulo appeared very familiar with New Jersey employees and attended with a team from CGI, creating the impression of a pre-existing relationship between the state and CGI. This raised concerns that were communicated via email.

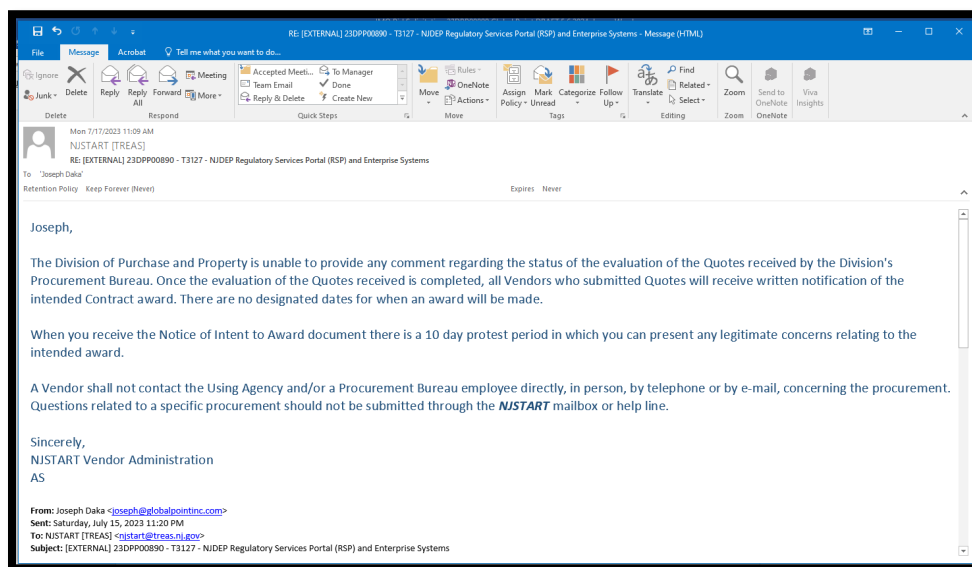
[Protest letter, P. 3.]

Global Point alludes to an improper relationship between the State and Mr. Tulo, believing “that the winners of the Bid had an unfair advantage.” Protest, p. 3. Based upon a review of the record, the allusion of impropriety is unfounded.

Global Point notes in its protest letter that its concern focused on the “perceived conflict of interest as John Tulo appeared very familiar with New Jersey employees and attended with a team from CGI, creating the impression of a pre-existing relationship between the state and CGI.” Global Point attempted to reach out to the Procurement Specialist by email on July 15, 2023, following the opening of the bidders’ Quotes, despite the prohibition in Bid Solicitation Section 2.1 that bidders shall not contact the Procurement Specialist, requesting an update on the evaluation of the Quotes, as well as raising for the first time its concern regarding another vendor:



The NJSTART Team responded to that email on July 17, 2023, with the following:



In support of its position that CGI had some unfair advantage, Global Point cites to the LinkedIn page for Mr. Tulo, included in its protest letter as Exhibit 1. Specifically, it relies on the following language highlighted in the exhibit:

“he works as a Senior Consultant on behalf of the New Jersey Department of Environmental Protection, managing rapid, large-scale software development projects through the application of Scrum methodologies for agile development.”

Taken together, Global Point argues that these issues reveal an incumbency bias in favor of CGI.

Mr. Tulo’s LinkedIn page work experience description does not constitute grounds to rescind the Notice of Intent to Award. As noted above, NJDEP was provided with the opportunity to respond to the issues regarding Mr. Tulo raised by Global Point in the Protest. On May 6, 2024, NJDEP responded to the Protest (Response), stating that Steve Tulo “does not work separately as a ‘Senior Consultant’ for NJDEP outside of a State-awarded contract like T3127. He is presently only performing work for NJDEP through a State-awarded contract as an employee for CGI, the awarded contract vendor for State Contracts G2024 (being reprocured as T3127) and G1005. Presently Steve is the CGI engagement manager for these 2 contracts.”

While NJDEP cannot control what Mr. Tulo posts to his LinkedIn page, an independent review of the State’s contract website NJSTART.com reveals Mr. Tulo does not independently hold any contracts with the State of New Jersey. Additionally, NJDEP has confirmed that Mr. Tulo does not hold any contracts with the agency, but only performs services for NJDEP as a vendor through CGI’s contract. With respect to Global Point’s first argument, the record shows Mr. Tulo does not have a “dual role as an advisor to the New Jersey Department of Environmental Protection and a product owner at CGI Technologies and Solutions.”

Moreover, being an incumbent does not give CGI an unfair advantage due to any advanced knowledge of project requirements and potential conflicts of interest. Every new Bid Solicitation is developed solely between a using agency and the Division’s Procurement Bureau. Even if this were not true, Bid Solicitation Section 1.2, *Background*, advises every potential bidder on the steps to obtain a copy of the existing contract’s details, and even advises bidders to “not rely upon or use data or information from the [existing contract] when preparing a response to this Bid Solicitation as this Bid Solicitation addresses the State’s current requirements.” Thus, all bidders are on a level playing ground by understanding what was required in the prior Bid Solicitation, and what is required in the Bid Solicitation being advertised requesting Quotes.

If Global Point’s position was accepted that CGI gained some unfair advantage as the incumbent, then the State would be prohibited from ever permitting an incumbent to bid on a reprocurement. Such a position would deny the State and its citizens the benefit of unfettered competition for the best available services, and is the reason the State’s procurement laws require that the process be conducted in a public manner with clear bid specifications and requirements as outlined above.

In fact, the Division’s regulations in N.J.A.C. 17:12-2.7 specifically identify who may be involved with the procurement process (an approved evaluation committee or an individual procurement specialist), and Bid Solicitation Section 2.1, *Electronic Question and Answer Period*, prohibits contact between potential bidders and the Using Agency and the Procurement Specialist regarding the Bid Solicitation prior to Contract award. And N.J.A.C. 17:12-2.6, *Receipt and Public Availability of Proposals*, proposals will remain sealed until the revised proposal opening time. Assuming *arguendo* that NJDEP wanted to provide guidance to a bidder to help that bidder prepare a Quote that is superior to the other bidders, it would be futile because the agency would not have knowledge of the other bidders’ materials to provide advice on how to obtain a higher score from the evaluation committee or procurement specialist.



The New Jersey Courts have long recognized that the purpose of the public bidding process is to “secure for the public the benefits of unfettered competition.” Meadowbrook Carting Co. v. Borough of Island Heights, 138 N.J. 307, 313 (1994). To that end, the “public bidding statutes exist for the benefit of the taxpayers, not bidders, and should be construed with sole reference to the public good.” Borough of Princeton v. Board of Chosen Freeholders, 169 N.J. 135, 159-60 (1997). The objective of New Jersey’s statutory procurement scheme is “to guard against favoritism, improvidence, extravagance and corruption; their aim is to secure for the public the benefits of unfettered competition.” Barrick v. State of New Jersey, 218 N.J. 247, 258 (2014) (citing, Keyes Martin & Co. v. Dir. of Div. of Purchase and Prop., 99 N.J. 244, 256 (1985)).

Global Point was provided a fair opportunity, consistent with the goals and obligations outlined in New Jersey’s statutory and regulatory procurement processes, to participate in the process outlined in the Bid Solicitation for T3127 - NJDEP Regulatory Services Portal (RSP) and Enterprise Systems. Global Point received all of the information necessary to formulate and file its Quote such that it was not denied the fair opportunity provided to all potential bidders. The technical evaluation scoring and review of pricing to determine a bidder’s score and ranking was solely within the discretion of the Evaluation Committee and the Bureau in evaluating the Quotes in accordance with the guidelines established in the Bid Solicitation, and without involvement from any bidder or vendor. Additionally, the scoring of the Quotes is a public matter available for review by the public, as well as this Hearing Unit during protests.

The Division cannot waive or relax the submission requirements for one Vendor at the expense of the other compliant Vendors. “Requiring adherence to material specifications maintains a level playing field for all bidders competing for a public contract.” Barrick v. State, 218 N.J. 247, 259 (2014). Accordingly, I do not find cause to disturb the Notice of Intent to Award on the grounds raised by Global Point’s protest.

### **CONCLUSION**

In light of the findings set forth above, I must deny Global Point’s request to be considered for eligibility to participate in the competition for this contract, and sustain the April 9, 2024 Notice of Intent to Award. This is my final agency decision. 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.

Thank you for your company’s continuing interest in doing business with the State of New Jersey. I encourage you to log into [NJSTART](#) to select any and all commodity codes for procurements you may be interested in submitting a Quote for so that you may receive notification of future bidding opportunities.

This is the Division’s final agency decision. Pursuant to N.J.A.C. 17:12-3.1, this determination is appealable to the Appellate Division of the Superior Court in accordance with the New Jersey Court Rules (R. 2:4-1) which provide a party 45 days to appeal this final agency decision.

Sincerely,



Cory K. Kestner  
Acting Chief Hearing Officer

c: M. Dunn  
J. Pastuzyn  
J. Sulzer