



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
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*Acting Director*

August 5, 2021

*Via Electronic Mail Only* [frank.defina@vaisala.com](mailto:frank.defina@vaisala.com)

Frank DeFina, Sales Manager – Meteorology  
Vaisala, Inc.  
10-D Gill Street  
Worburn, MA 01801

Re: I/M/O Bid Solicitation #20DPP00589 Vaisala, Inc.  
Protest of Notice of Intent to Award  
T0983 Environmental Testing Instruments, Equipment and Supplies for Air and Water Quality  
Testing and Monitoring

Dear Mr. DeFina:

This letter is in response to your email of August 3, 2021, on behalf of Vaisala, Inc. (Vaisala) which was received by the Division of Purchase and Property's (Division) Hearing Unit. In that correspondence, Vaisala protests the July 28, 2021, Notice of Intent to Award letter and the July 26, 2021, Recommendation Report which indicated that Vaisala was not eligible for an award because its submitted Quote was rejected by the Division's Proposal Review Unit for failure to submit a completed *Ownership Disclosure Form*.

By way of background, on October 30, 2020, the Division's Procurement Bureau (Bureau) issued the Bid Solicitation #20DPP00589 - T0983 Environmental Testing Instruments, Equipment and Supplies for Air and Water Quality Testing and Monitoring (Bid Solicitation) on behalf of State Using Agencies and Cooperative Purchasing Program participants. Bid Solicitation §1.1 *Purpose and Intent*. The purpose of the Bid Solicitation was to solicit Quotes for Environmental Testing Instruments, Equipment and Supplies for Air and Water Quality Testing and Monitoring. *Ibid*. On December 18, 2020, the Division's Proposal Review Unit opened fifteen Quotes which were 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 Vaisala for failing to submit a completed *Ownership Disclosure Form* with its Quote. In response to the Notice of Proposal Rejection, on December 22, 2020, Vaisala wrote the Division's Hearing Unit protesting the Notice of Proposal Rejection. With the protest, Vaisala included a completed *Ownership Disclosure Form*.

On December 24, 2020, the Division issued a final agency decision which sustained the Proposal Review Unit's Notice of Proposal Rejection. Vaisala then submitted a request for reconsideration to the Division's Hearing Unit. In the request for reconsideration Vaisala stated that it had a current contract with the State, which had been recently extended. In connection with the extension, Vaisala affirmed that its previously submitted ownership disclosure had not changed; and therefore, it has already made the required ownership disclosure to the State.

After reviewing the request for reconsideration, the Division determined that though Vaisala's prior submission of this ownership statement was more than 6 months old; the noncompliance with N.J.S.A. 52:25-24.2 did not deprive the State of the assurance that the contract will be entered in to performed and guaranteed according to its specified requirements. In accordance with the applicable case law, in reaching this finding the Division found that Vaisala had a current contract with the State, was 100% owned by a publicly traded company of the same name, information which could be verified independently, and had recently affirmed that there has not been any change in its ownership. See, *Schlumberger Industries, Inc. v. Borough of Avalon*, 252 N.J. Super. 202 (App. Div. 1991). Accordingly, the Proposal Review Unit's Notice of Proposal Rejection was overturned and Vaisala's Quote was forwarded to the Bureau for review and evaluation along with all other Quote submitted. It appears however that Vaisala's Quote was not evaluated by the Bureau.

Accordingly, I remand this matter back the Bureau to evaluate Vaisala's submitted Quote. I note that this procurement was structured to make awards to all responsive Vendors {Bidders}; therefore, the remainder of the July 28, 2021, Notice of Intent to Award is not affected by this remand.

Sincerely,



Maurice A. Griffin  
Acting Director

- c. J. Kerchner
- K. Thomas
- C. Murphy
- R. Bowen