

			
Manual:	CON	Contracting	Effective Date:
Volume:	I	Contract Policy and Information Manual (CPIM)	
Chapter:	A	Contract Policy and Information	8-1-2008
Subchapter:	1	Contract Negotiations and Revisions	
Issuance:	1.08.2008	Requests for Reconsideration of Disqualifications or Contract Award Determinations Resulting from Applications filed in response to Request for Proposals (RFP) and Requests for Qualifications (RFQ)	Revised:
			12-18-2023

Purpose:

This issuance establishes the policy and procedures of the New Jersey Department of Children and Families (DCF) for responding to Applicants who request reconsideration of either the disqualification of their applications or the decision to not select their applications for contract awards. This policy applies to all individuals or entities participating in DCF's RFP and RFQ procurement process in accordance with DCF Policy CON-I-A-1-04.2010 for the awarding of contracts that do not fall within the parameters of N.J.S.A. 52:34-6 et seq.

Authority:

- N.J.S.A. § 9:3A-3 (2013) - Department of Children and Families established
- N.J.S.A. § 9:3A-7(n) (2013) - Responsibilities, duties of Commissioner
- N.J.S.A. § 30:1-1.2 (2013) - Establishment of contracts, licensing for social services providers
- N.J.A.C. 30:4C-4 - Powers of Department of Children and Families

Policy:

The Director of the Departmental Component responsible for the processing of RFPs and RFQs will:

- A) Send a notice of disqualification to an Applicant who failed to meet the criteria described in the RFP or RFQ for distributing its application to the Evaluation Committee for its review. In response to this notice, the Applicant may submit a written request for clarification regarding the basis for the disqualification.
- B) Send a response to the request for clarification of the disqualification within the time allowed to file an Appeal from the notice of disqualification. In response to the clarification provided, the Applicant may accept the disqualification or file an Appeal.
- C) May consider an unsuccessful applicant's Appeal of a disqualification based only on a dispute regarding whether the facts of a particular case are sufficient to meet the requirements and will not consider a dispute regarding the existence of any of the requirements. The indisputable prerequisites for qualifying an application for review by an Evaluation Committee include:
 - 1) A signed Attestation of Acceptance of the specified deliverables;
 - 2) Attendance at a mandatory virtual conference;
 - 3) The inclusion of an Ownership Disclosure Form:
<https://www.nj.gov/treasury/purchase/forms/OwnershipDisclosure.pdf>
- D) Send a notice of non-selection to an Applicant who the Commissioner has not selected for award after its qualified application was distributed to the Evaluation Committee for review of its merits. In response to this notice, the Applicant may submit a written request for clarification regarding the basis for the Commissioner's non-selection.
- E) Send a response to the request for clarification of the decision to not select by providing the Evaluation Committee's summary review of the rejected application within the time allowed to file an Appeal from the notice of non-selection.
- F) In response to the clarification provided, the Applicant may accept the Commissioner's decision to not select its application for award or file an Appeal.
- G) May consider an unsuccessful applicant's Appeal of a non-selection based only on an allegation that the Department has violated a statutory or regulatory provision in awarding the grant. An Applicant may not base its Appeal on its disagreement with the Evaluation Committee's exercise of its proper discretion or professional judgment in the evaluation and scoring of a proposal nor use the Appeal process to obtain feedback regarding the perceived strengths and limitations of its application and competitor's applications.

Procedures:

- 1) An Applicant who receives notice that the application it submitted in response to either a RFP or RFQ has been either disqualified or not selected for award may submit in writing:

- a) A request for clarification of the basis for the decision to DCF.ASKRFP@dcf.nj.gov. In response to a disqualification, the Applicant may request information about the criteria not satisfied, and in response to a decision to not select an application for award, the Applicant may request the Evaluation Committee's summary review of the application.
 - b) An Appeal within ten (10) business days following the date of the notice by emailing it to DCF.AHUAppeals@dcf.nj.gov and/or mailing it to:
Department of Children and Families
Office of Legal Affairs
Contract Appeals
P.O. Box 717
50 East State Street 4th Floor
Trenton, NJ 08625
- 2) The request for an Appeal challenging the Department's decision to either disqualify an application or not select a qualified application for an award of a contract shall contain the following items:
 - a) Identification of the RFP (i.e. title and/or service description and issue date);
 - b) The specific grounds for challenging the decision, and all supporting arguments, materials and/or other documentation's position; and
 - c) A statement as to whether the appealing applicant requests an opportunity for oral presentation and the reason(s) for the request.
 - 3) The Director may disregard an Appeal when the written Appeal:
 - a) does not contain all the items set forth above; and
 - b) is filed after the 10-day protest period.
 - 4) The Department shall hold all contract awards until a final decision is rendered by the Director on the merits of the Appeal unless the failure to award the contract will result in danger and/or risk to the safety and well-being of DCF clients, or substantial cost to the State.
 - 5) The Appeal accepted by the Director shall be resolved by written decision based on a review of the written record including, but not limited to:
 - a) The written Appellate arguments;
 - b) The terms, conditions and requirements of the RFP;
 - c) The applications submitted in response to the RFP; and
 - d) Pertinent administrative rules, statutes, case law, and any associated documentation the Director deems appropriate.
 - 6) In cases where no oral presentation is held, such review of the written record shall, in and of itself, constitute an informal hearing.
 - 7) The Director is also entitled to request, receive and review copies of all records and documents that he/she deems appropriate and relevant to the issues and arguments set forth in the Appeal. Upon receipt of the Director's request, the appealing applicant

shall promptly provide the requested records and documents free of charge in the time, place and manner specified by the Director. Failure of the appealing applicant to comply with this section may, at the reasonable discretion of the Director, constitute sufficient basis to resolve the Appeal against the applicant. The Director may also consider relevant information requested and received from other parties as deemed appropriate.

- 8) The Director has sole discretion to determine if an oral presentation by the protesting applicant is necessary to reach an informed decision. Oral presentations are fact-finding for the benefit of the Director. The Director also has sole discretion regarding who may attend the oral presentation.
- 9) The Director or designee may perform a review of the written record or conduct an oral presentation directly. The Director's designee shall not include members of the Evaluation Committee. In the case of a review or oral presentation being handled by a designee, the determination of the designee shall be in the form of a report and recommendations to the Director, which shall be advisory in nature and not binding on the Director.
- 10) After the review, the Director shall make a written decision on the matter of the Appeal and confer with the Departmental Component responsible for the legal administration of Appeals. With the authorization of the Assistant Commissioner of this Departmental Component, the Director shall sign and issue the decision with a summary of findings, as final and appealable to the Appellate Division of the Superior Court of New Jersey. Copies of the final decision letter and all accompanying documentation shall be retained on file and forwarded to the following:
 - a) Commissioner's Office;
 - b) Director of the Departmental Component responsible for the legal administration of Appeals;
 - c) Director of the Departmental Component responsible for the oversight of the services to be procured; and the
 - d) Chairperson of the Evaluation Committee.
- 11) To the extent that the Director agrees with the appealing applicant, the Department shall take such corrective action as it deems necessary.
- 12) All Appeals shall be completed within the timeframes specified below:
 - a) Appeals filed from a decision to disqualify an application shall be resolved prior to the Evaluation Committee's review and scoring of accepted applications.
 - b) Appeals filed from a decision to not select an application for an award of contract shall be completed within 30 days of the Director's receipt of the applicant's written Appeal.
- 13) The Director may, in instances where public exigency exists or where there is potential for substantial cost benefit or other such advantage to the State, modify or

amend the time periods noted in this policy. In these instances, the Director shall give adequate notice to the parties involved.

Key Terms (Definitions):

In addition to the defined terms included in the Glossary of the DCF Contract Manual, the following terms, when capitalized, shall have the meanings as stated:

- **Appeal** means the procedure defined herein for unsuccessful applicants to challenge decisions to disqualify an application or to not select a qualified application for an award of a contract.
- **Applicant** means the person, agency or entity filing an application in response to a Request for Proposal (RFP) or Request for Qualification (RFQ).
- **Departmental Component responsible for the oversight of the services to be procured** means the DCF Divisions and Offices involved in the provision of the specified program services.
- **Departmental Component responsible for the processing of RFPs and RFQs** means the DCF Office of Grants, Integrity, and Auditing (GIA).
- **Departmental Component responsible for the administration of Appeals** means the Office of Policy, Legal Affairs & Compliance.
- **Evaluation Committee** means the individuals appointed by DCF to evaluate the proposals.
- **Request for Clarification** means the procedure for unsuccessful applicants to seek information about the decision to disqualify an application or to not select a qualified application for an award of a contract.
- **Request for Proposals** means the document that solicits Applicants to comply with all specified requirements as demonstrated by submitting all required documentation and signing the Statement of Acceptance and additionally requires them to be evaluated and scored by the Evaluation Committee based on the quality, completeness, and accuracy of their narrative responses to questions.
- **Request for Qualifications** means the document that solicits applicants to comply with all specified requirements as demonstrated by submitting all required documentation and signing the Statement of Acceptance.

Policy History

- Revised, 5-20-2024
- Revised, 12-18-2023
- New, 8-1-2008