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CHAIRMAN, HOUSE WAYS AND MEANS

Protest Decision

Matter of: Mobil Satellite Technologies

Case No.: 2017-201

Posting Date: August 26, 2016

Contracting Entity: SC State University

Solicitation No.: 744059-70238-06/23/16

Description: 1890 Technology Mobile Unit Satellite Service w/up (4) four Annual Renewals

DIGEST

Protest of an award with a total potential value less than \$50,000 is denied.

AUTHORITY

The Chief Procurement Officer conducted an administrative review pursuant to S.C. Code Ann. §11-35-4210(4). This decision is based on the evidence and applicable law and precedents.

BACKGROUND

<i>Event</i>	<i>Date</i>
Solicitation Issued	06/03/2016
Amendment One Issued	06/03/2016
Bid Opening	08/17/2016
Protest Received	08/17/2016

This Invitation for Bids was issued by South Carolina State University for 1890 Technology Mobile Unit Satellite Service. Mobile Satellite Technologies (MST) protests any award resulting from this solicitation due to unclear, contradictory, and misleading specifications. (Attachment 1)

ANALYSIS

MST protests that the solicitation any award resulting from this solicitation as follows:

At this point, we would like to register an official protest of any award resulting from this Solicitation. The specifications are too unclear and contradictory for a vendor to fully understand the requirements. We respectfully request that this Solicitation be cancelled and re-issued once the specifications are made clear enough for vendors to make an intelligent response.

The South Carolina Consolidated Procurement Code grants a potential bidder, offeror, contractor, or subcontractor the right to protest the solicitation of a contract as follows:

Section 11-35-4210(1) (a) A prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the solicitation of a contract shall protest to the appropriate chief procurement officer in the manner stated in subsection (2)(a) within fifteen days of the date of issuance of the Invitation For Bids or Requests for Proposals or other solicitation documents, whichever is applicable, or any amendment to it, if the amendment is at issue.

The Code also grants actual bidders, offerors, contractors, or subcontractors the right to protest the award or intended award of a contract as follows:

Section 11-35-4210(1) (b) Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest to the appropriate chief procurement officer in the manner stated in subsection (2)(b) within ten days of the date award or notification of intent to award, whichever is earlier, is posted in accordance with this code; except that a matter that could have been raised pursuant to (a) as a protest of the solicitation may not be raised as a protest of the award or intended award of a contract.

However, the Code limits the protest of a solicitation or award to contracts that have a total or potential value greater than \$50,000.00 as follows:

Section 11-35-4210(1)(d) The rights and remedies granted by subsection (1) and Section 11-35-4410(1)(b) are not available for contracts with an actual or potential value of up to fifty thousand dollars.

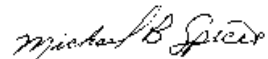
The total potential value of this contract is \$36,410.70 as evidenced by the Statement of Award.
(Exhibit 2)

While MST may have legitimate concerns about this solicitation, because the total potential value of this contract is less than \$50,000.00, the Chief Procurement Officer lacks jurisdiction to review this protest.

DECISION

For the reasons stated above, the protest of Mobil Satellite Technologies is denied.

For the Information Technology Management Office



Michael B. Spicer
Chief Procurement Officer

Attachment 1

From: [Kirk Williams](#)
To: [Kimpson, Sallie A.](#)
Cc: [Protest-MMO](#)
Subject: Solicitation #744059-70238-06/23/16 1890 Technology Mobile Unit Satellite Service.
Date: Wednesday, August 17, 2016 2:41:24 PM
Attachments: [Image002.png](#)

Ms. Kimpson,

I am writing to you again regarding RE-BID Solicitation #744059-70238-06/23/16 1890 Technology Mobile Unit Satellite Service.

We attempted to respond to this Solicitation but unfortunately encountered inconsistencies in the Solicitation that have prevented us from submitting a bid. The way the specifications are written, it is not possible to use the required BIDDING SCHEDULE / PRICE BUSINESS PROPOSAL form to properly respond to this Solicitation.

1. In the 1890 Technology Mobile Unit Satellite Specifications section it has written specifications for two different systems (.98 meter and 1.2 meter), but in Section VIII. BIDDING SCHEDULE / PRICE BUSINESS PROPOSAL, Bidding Schedule, there is no place for a vendor to enter pricing information for more than one of the two different (.98 meter and 1.2 meter) satellite antennas which are included in the specifications. Because there is no place to list the pricing for the items listed and requested in the Solicitation, a complete response could not be made.
2. In Section VIII. BIDDING SCHEDULE / PRICE BUSINESS PROPOSAL, it lists (3) items, but they are all labeled as Item #1. There cannot be three items that are each Item #1.
3. In Section VIII. BIDDING SCHEDULE / PRICE BUSINESS PROPOSAL, for the first item it list the Unit of Measure as years. But, the item description appear to be a single satellite antenna system. Hardware purchases cannot be quantified by years as a unit of measure.
4. It is impossible for a vendor to propose two different antennas (from the specifications) in a space which only asks for a quantity of (4) of a single item. This makes it impossible for a vendor to propose both satellite systems from the specifications in the document provided for the response.
5. In the specifications, under SATELLITE INTERNET SERVICE it lists two different service plans in the requirements, but in Section VIII. BIDDING SCHEDULE / PRICE BUSINESS PROPOSAL there is only space to provide information about (1) service plan. The information in the specifications about the service requirements are contradictory to what can be submitted using the required BIDDING SCHEDULE / PRICE BUSINESS PROPOSAL.

In summary, there are too many mistakes and contradictions between the specifications and the BIDDING SCHEDULE / PRICE BUSINESS PROPOSAL, Bidding Schedule for any vendor to be absolutely certain as to what is being requested under the Solicitation. Unclear, contradictory, and misleading specifications prevent vendors from participating, and restrict a full and fair competition.

At this point, we would like to register an official protest of any award resulting from this Solicitation. The specifications are too unclear and contradictory for a vendor to fully understand the requirements. We respectfully request that this Solicitation be canceled and re-issued once the specifications are made clear enough for vendors to make an intelligent response.

Thank you in advance for your assistance.

Kirk Williams

Mobil Satellite Technologies | [RVDatSat.com](#)
[www.mobilsat.com](#) | [www.Ready-Sat.com](#) | [Rvdatasat.com](#)
voice: 757.312.8300 ext. 306 | fax: 757.282.7702 | kirk@mobilsat.com | [@MobilsatUSA](https://www.facebook.com/MobilsatUSA)
2021 Scenic Parkway | Chesapeake, VA 23323

To watch a brief Video about Mobil Satellite Technologies [CLICK HERE](#)



 please consider the environment before printing this email



"We can't solve problems by using the same kind of thinking we used when we created them"..... *Albert Einstein*

Attachment 2

SOUTH CAROLINA STATE UNIVERSITY
PROCUREMENT OFFICE
300 COLLEGE STREET, NE
ORANGEBURG, SOUTH CAROLINA 29117

Statement of Award

Posting Date: August 18, 2016

Solicitation: Re-Bid 744059-70238-06/23/16

Description: Re-Bid 1890 Technology Mobile Unit Satellite Service

The University awards the contract noted below. This document is the final Statement of Award, Effective **8:30.00, August 18, 2016**. Unless otherwise provided in the solicitation, the final statement of Award serves as acceptance of your offer.

Contractor should not perform work on or incur any costs associated with the contract prior to the Effective date of the contract. Contractor should not perform any work prior to the receipt of a Purchase order from the using governmental unit. The University assumes no liability for ant expense incurred prior to the effective date of the contract and issuance of a purchase order.

Awarded To: Ground Control, Inc.
3100 El Camino Real
Atascadero, CA 93422

Annual Cost:

Total Contract Value: Not to exceed \$36,410.70
Initial Contract Period: 2016 – 2020 Service w/up (4) four Annual Renewals

Procurement Officer
Sallie Kimpson, CPPB

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised September 2015)

The South Carolina Procurement Code, in Section 11-35-4210, subsection 6, states:

(6) Finality of Decision. A decision pursuant to subsection (4) is final and conclusive, unless fraudulent or unless a person adversely affected by the decision requests a further administrative review by the Procurement Review Panel pursuant to Section 11-35-4410(1) within ten days of posting of the decision in accordance with subsection (5). The request for review must be directed to the appropriate chief procurement officer, who shall forward the request to the panel or to the Procurement Review Panel, and must be in writing, setting forth the reasons for disagreement with the decision of the appropriate chief procurement officer. The person also may request a hearing before the Procurement Review Panel. The appropriate chief procurement officer and an affected governmental body shall have the opportunity to participate fully in a later review or appeal, administrative or judicial.

Copies of the Panel’s decisions and other additional information regarding the protest process is available on the internet at the following web site: <http://procurement.sc.gov>

FILE BY CLOSE OF BUSINESS: Appeals must be filed by 5:00 PM, the close of business. *Protest of Palmetto Unilect, LLC*, Case No. 2004-6 (dismissing as untimely an appeal emailed prior to 5:00 PM but not received until after 5:00 PM); *Appeal of Pee Dee Regional Transportation Services, et al.*, Case No. 2007-1 (dismissing as untimely an appeal faxed to the CPO at 6:59 PM).

FILING FEE: Pursuant to Proviso 111.1 of the 2015 General Appropriations Act, “[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410...Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of financial hardship, the party shall submit a completed Request for Filing Fee Waiver form at the same time the request for review is filed. The Request for Filing Fee Waiver form is attached to this Decision. If the filing fee is not waived, the party must pay the filing fee within fifteen days of the date of receipt of the order denying waiver of the filing fee. Requests for administrative review will not be accepted unless accompanied by the filing fee or a completed Request for Filing Fee Waiver form at the time of filing.” PLEASE MAKE YOUR CHECK PAYABLE TO THE “SC PROCUREMENT REVIEW PANEL.”

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, business entities organized and registered as corporations, limited liability companies, and limited partnerships must be represented by a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003); and *Protest of PC&C Enterprises, LLC*, Case No. 2012-1 (Proc. Rev. Panel April 2, 2012). However, individuals and those operating as an individual doing business under a trade name may proceed without counsel, if desired.

**South Carolina Procurement Review Panel
Request for Filing Fee Waiver
1105 Pendleton Street, Suite 209, Columbia, SC 29201**

Name of Requestor

Address

City

State

Zip

Business Phone

-
1. What is your/your company's monthly income? _____
 2. What are your/your company's monthly expenses? _____
 3. List any other circumstances which you think affect your/your company's ability to pay the filing fee:

To the best of my knowledge, the information above is true and accurate. I have made no attempt to misrepresent my/my company's financial condition. I hereby request that the filing fee for requesting administrative review be waived.

Sworn to before me this
_____ day of _____, 20_____

Notary Public of South Carolina

Requestor/Appellant

My Commission expires: _____

For official use only: _____ Fee Waived _____ Waiver Denied

Chairman or Vice Chairman, SC Procurement Review Panel

This _____ day of _____, 20_____
Columbia, South Carolina

NOTE: If your filing fee request is denied, you will be expected to pay the filing fee within fifteen (15) days of the date of receipt of the order denying the waiver.