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THE DIVISION OF PROCUREMENT SERVICES

DELBERT H. SINGLETON, JR.
DIVISION DIRECTOR
(803) 734-8018

MICHAEL B. SPICER
INFORMATION TECHNOLOGY MANAGEMENT OFFICER
(803) 737-0600
FAX: (803) 737-0639

Protest Decision

Matter of: Touchstone Forest Products, Inc.

Case No.: 2018-151

Posting Date: March 22, 2018

Contracting Entity: University of South Carolina

Solicitation No.: USC-IFB-3247

Description: Furnish and Deliver Double Hammered Hardwood Mulch to Various Locations at the University of South Carolina Columbia Campus

DIGEST

Protest alleging bidding improprieties is denied. Touchstone Forest Products' (TFP) letter of protest is included by reference. [Attachment 1]

AUTHORITY

The Chief Procurement Officer¹ (CPO) conducted an administrative review pursuant to S.C. Code Ann. §11-35-4210(4). This decision is based on materials in the procurement file and applicable law and precedents.

¹ The Materials Management Officer delegated the administrative review of this protest to the Chief Procurement Officer for Information Technology.

BACKGROUND

Event	Date
Solicitation Issued	01/16/2018
Bids Received	02/20/2018
Award Posting Date on Solicitation	02/27/2018
Extension of Award Posting Date	02/27/2018
Intent to Award Issued	03/06/2018
Protest Received	03/09/2018

ANALYSIS

The University of South Carolina (USC) issued this Invitation For Bids (IFB) on January 16, 2018, for double hammered hardwood mulch delivered to various locations at the University of South Carolina Columbia Campus. The solicitation required bid to be submitted by 11:00 AM on February 20, 2018. Regulation 19-445.2090(B) requires that the award date be published in the solicitation:

The procurement officer shall issue the notice of intent to award or award on the date specified in the solicitation, unless the procurement officer determines, and gives notice, that a longer review time is necessary. The procurement officer shall give notice of a time extension to each bidder by posting it at the location identified in the solicitation.

(emphasis added)

In accordance with Regulation 19-445.2090(B) the first page of the solicitation specified that the award would be made on February 27, 2018. [Attachment 2] Amendment 1 was issued on January 23, 2018. Bids were received on February 20, 2018. Bids were time and date stamped at the time of bid opening. On February 27, 2018, in compliance with Regulation 19-445.2090(B), the procurement officer issued an Extension of Award Posting Date setting a new award date of March 6, 2018. [Attachment 3] An Intent to Award was posted to State Tree Service, LLC on March 6, 2018.

On March 9, 2018, TFP protested:

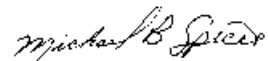
I am writing this letter to formally protest the awarding of the contract for bid USC-IFB-3247(double hammered hardwood mulch), as I firmly believe that at the time of the original bid submission deadline, my company had submitted the lowest fulfillment bid. Subsequent to the seemingly random extension of the bid deadline, I believe another bid was placed for exactly fifty cents less per cubic yard, which seems wildly unlikely in a sealed bid scenario.

The bid tabulation indicates that it was prepared on February 20, 2018. [Attachment 4] The bid tabulation indicates that State Tree Service, LLC submitted a bid of \$11.00 per ton and Touchstone submitted a bid of \$11.50 per ton for the mulch. The two bids were time and date stamped at bid opening and both indicate they were received at 11:00 AM on February 20, 2018. [Attachments 5 and 6] There is nothing in the record to indicate that the bid of State Tree Service was received after original bid submission deadline. The burden of proof is on the protestant to demonstrate by a preponderance of the evidence that there were improprieties in the solicitation process. TFP failed to meet its burden of proof.

DECISION

For the reasons stated above, the protest of Touchstone Forest Products, Inc. is denied.

For the Materials Management Office



Michael B. Spicer
Chief Procurement Officer

REC'D BID CONTROL

APR 9 10 PM 9:52AM

Touchstone Forest Products
1113 Sugar Hill Drive
Moncks Corner, SC 29461
(843)509-2112

To whom it may concern:

I am writing this letter to formally protest the awarding of the contract for bid **USC-IFB-3247**(double hammered hardwood mulch), as I firmly believe that at the time of the original bid submission deadline, my company had submitted the lowest fulfillment bid. Subsequent to the seemingly random extension of the bid deadline, I believe another bid was placed for exactly fifty cents less per cubic yard, which seems wildly unlikely in a sealed bid scenario.


Thank you in advance for your attention and response,



Chris Wilson
Touchstone Forest Products
(843)5090-2112

Cc: Ashley Kennedy-Shell

Attachment 2

 UNIVERSITY OF SOUTH CAROLINA	INVITATION FOR BIDS	Solicitation Number: USC-IFB-3247-AS Date Issued: January 16, 2018 Procurement Officer: Ashley Kennedy-Shell Phone: 803-777-4115 E-Mail Address: abk@mailbox.sc.edu Mailing Address: 1600 Hampton Street Ste 606 Columbia, SC 29208
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DESCRIPTION: FURNISH AND DELIVER DOUBLE HAMMERED HARDWOOD MULCH TO VARIOUS LOCATIONS AT THE UNIVERSITY OF SOUTH CAROLINA COLUMBIA CAMPUS

The Term "Offer" Means Your "Bid" or "Proposal". Your offer must be submitted in a sealed package. Solicitation Number & Opening Date must appear on package exterior. See "Submitting Your Paper Offer or Modification" provision.

SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:	
MAILING ADDRESS: University of South Carolina – Purchasing Department 1600 Hampton Street, Suite 606 Columbia SC 29208	PHYSICAL ADDRESS: University of South Carolina – Purchasing Department 1600 Hampton Street, Suite 606 Columbia SC 29208
SUBMIT OFFER BY (Opening Date/Time): 02/20/18 at 11:00 AM (See "Deadline For Submission Of Offer" provision)	
QUESTIONS MUST BE RECEIVED BY: 01/23/18 at 11:00 AM (See "Questions From Offerors" provision)	
NUMBER OF COPIES TO BE SUBMITTED: One Original and Two (2) Copies marked "COPY" plus (1) Electronic Copy (Original Hardcopy Shall Prevail)	
CONFERENCE TYPE: N/A DATE & TIME: N/A (As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions)	LOCATION: N/A

AWARD & AMENDMENTS	Award will be posted on 02/27/18 . The award, this solicitation, any amendments, and any related notices will be posted at the following web address: http://purchasing.sc.edu/
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You must submit a signed copy of this form with Your Offer. By signing, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of thirty (30) calendar days after the Opening Date. (See "Signing Your Offer" provision.)

NAME OF OFFEROR (full legal name of business submitting the offer)	Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.
AUTHORIZED SIGNATURE (Person must be authorized to submit binding offer to contract on behalf of Offeror.)	DATE SIGNED
TITLE (business title of person signing above)	STATE VENDOR NO. (Register to Obtain S.C. Vendor No. at www.procurement.sc.gov)
PRINTED NAME (printed name of person signing above)	STATE OF INCORPORATION (If you are a corporation, identify the state of incorporation.)

OFFEROR'S TYPE OF ENTITY: (Check one)		(See "Signing Your Offer" provision.)
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Other _____
<input type="checkbox"/> Corporate entity (not tax-exempt)	<input type="checkbox"/> Corporation (tax-exempt)	<input type="checkbox"/> Government entity (federal, state, or local)



UNIVERSITY OF
SOUTH CAROLINA

February 27, 2018

EXTENSION OF AWARD POSTING DATE

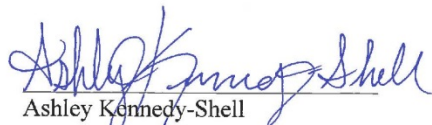
**THE DATE FOR POSTING THIS AWARD HAS BEEN EXTENDED TO
MARCH 6, 2018 PENDING FURTHER EVALUATION.**

REFERENCED IFB NUMBER: USC-IFB-3247-AS

**FOR: Furnish and Deliver Double Hammered
Hardwood Mulch to Various Locations at
The University of South Carolina
Columbia Campus**

ISSUE DATE: January 16, 2018

DEADLINE FOR RESPONSES: February 20, 2018 at 11:00 AM


Ashley Kennedy-Shell
Procurement Officer

Attachment 4

Preferences Calculator

What type of line item is being compared? ☒ Commodity ☐ Service

Solicitation Number: USC-IFB-3427-AS

Buyer: ASHLEY KENNEDY-SHELL


Line Item: Double Hammered Mulch

Date: FEB. 20, 2018

VENDOR		PREFERENCE		SUBCONTRACTORS <i>Service Contracts Only</i>		BID	REDUCTION	ADJUSTED	LOW BID
Enter Vendor Name.	Select Preference(s).	RSCP-2% Claims	RSCP-4% Claims	State Office	Message Indicator	Vendor's Bid Amount	Calculated from Preferences	Bid less Reduction	Identified by comparing Adjusted Bids
STATE TREE SERVICE LLC	No Preferences ▼	0 ▼	0 ▼	<input type="checkbox"/>		\$11.00	0%	\$11.00	LOW BID
SOUTHERN CAROLINA, LLC	USEPP ▼	0 ▼	0 ▼	<input type="checkbox"/>		\$21.57	2%	\$21.14	
SITEONE LANDSCAPE SUPPLY	RVP ▼	0 ▼	0 ▼	<input type="checkbox"/>		\$18.44	7%	\$17.15	
TOUCHSTONE FOREST PRODUCTS	No Preferences ▼	0 ▼	0 ▼	<input type="checkbox"/>		\$11.50	0%	\$11.50	
BORDER CONTRUCTION SPECIALTIES	USEPP ▼	0 ▼	0 ▼	<input type="checkbox"/>		\$21.35	2%	\$20.92	
	No Preferences ▼	0 ▼	0 ▼	<input type="checkbox"/>					
	No Preferences ▼	0 ▼	0 ▼	<input type="checkbox"/>					
	No Preferences ▼	0 ▼	0 ▼	<input type="checkbox"/>					
	No Preferences ▼	0 ▼	0 ▼	<input type="checkbox"/>					
	No Preferences ▼	0 ▼	0 ▼	<input type="checkbox"/>					
	No Preferences ▼	0 ▼	0 ▼	<input type="checkbox"/>					
	No Preferences ▼	0 ▼	0 ▼	<input type="checkbox"/>					
	No Preferences ▼	0 ▼	0 ▼	<input type="checkbox"/>					
	No Preferences ▼	0 ▼	0 ▼	<input type="checkbox"/>					
	No Preferences ▼	0 ▼	0 ▼	<input type="checkbox"/>					
	No Preferences ▼	0 ▼	0 ▼	<input type="checkbox"/>					

* The preferences must be applied to the price of each line item of end product or work, as applicable, regardless of whether award is to be made by item or lot. Accordingly, this Preferences Calculator should be used separately for each line item. Of course, a preference must not be applied to an item for which a bidder does not qualify.

Attachment 5

 UNIVERSITY OF SOUTH CAROLINA	INVITATION FOR BIDS	Solicitation Number:	USC-IFB-3247-AS
		Date Issued:	January 16, 2018
		Procurement Officer:	Ashley Kennedy-Shell
		Phone:	803-777-4115
		E-Mail Address:	abk@mailbox.sc.edu
		Mailing Address:	1600 Hampton Street Ste 606 Columbia, SC 29208

DESCRIPTION: FURNISH AND DELIVER DOUBLE HAMMERED HARDWOOD MULCH TO VARIOUS LOCATIONS AT THE UNIVERSITY OF SOUTH CAROLINA COLUMBIA CAMPUS

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SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:

MAILING ADDRESS:

University of South Carolina – Purchasing Department
1600 Hampton Street, Suite 606
Columbia SC 29208

PHYSICAL ADDRESS:

University of South Carolina – Purchasing Department
1600 Hampton Street, Suite 606
Columbia SC 29208

SUBMIT OFFER BY (Opening Date/Time): 02/20/18 at 11:00 AM

(See "Deadline For Submission Of Offer" provision)

QUESTIONS MUST BE RECEIVED BY: 01/23/18 at 11:00 AM

(See "Questions From Offerors" provision)

NUMBER OF COPIES TO BE SUBMITTED: One Original and Two (2) Copies marked "COPY" plus (1) Electronic Copy
(Original Hardcopy Shall Prevail)

CONFERENCE TYPE: N/A

DATE & TIME: N/A

(As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions)

LOCATION: N/A

**AWARD &
AMENDMENTS**

Award will be posted on 02/27/18. The award, this solicitation, any amendments, and any related notices will be posted at the following web address: <http://purchasing.sc.edu/>

You must submit a signed copy of this form with Your Offer. By signing, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of thirty (30) calendar days after the Opening Date. (See "Signing Your Offer" provision.)

NAME OF OFFEROR

Touchstone Forest Products

(full legal name of business submitting the offer)

Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.

AUTHORIZED SIGNATURE

[Signature]
(Person must be authorized to submit binding offer to contract on behalf of Offeror.)

DATE SIGNED

2/5/2018

TITLE

President / owner
(business title of person signing above)

STATE VENDOR NO.

7000252352
(Register to Obtain S.C. Vendor No. at www.procurement.sc.gov)

PRINTED NAME

Christopher D. Wilson
(printed name of person signing above)

STATE OF INCORPORATION

South Carolina
(If you are a corporation, identify the state of incorporation.)

OFFEROR'S TYPE OF ENTITY: (Check one)

(See "Signing Your Offer" provision.)

☐ Sole Proprietorship

☐ Partnership

☐ Other _____


☒ Corporate entity (not tax-exempt)

☐ Corporation (tax-exempt)

☐ Government entity (federal, state, or local)

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Attachment 6

 UNIVERSITY OF SOUTH CAROLINA	INVITATION FOR BIDS	Solicitation Number:	USC-IFB-3247-AS
		Date Issued:	January 16, 2018
		Procurement Officer:	Ashley Kennedy-Shell
		Phone:	803-777-4115
		E-Mail Address:	abk@mailbox.sc.edu
		Mailing Address:	1600 Hampton Street, Ste 606 Columbia, SC 29208

DESCRIPTION: FURNISH AND DELIVER DOUBLE HAMMERED HARDWOOD MULCH TO VARIOUS LOCATIONS AT THE UNIVERSITY OF SOUTH CAROLINA COLUMBIA CAMPUS

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SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:

MAILING ADDRESS: University of South Carolina – Purchasing Department 1600 Hampton Street, Suite 606 Columbia SC 29208	PHYSICAL ADDRESS: University of South Carolina – Purchasing Department 1600 Hampton Street, Suite 606 Columbia SC 29208
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SUBMIT OFFER BY (Opening Date/Time): 02/20/18 at 11:00 AM (See "Deadline For Submission Of Offer" provision)

QUESTIONS MUST BE RECEIVED BY: 01/23/18 at 11:00 AM (See "Questions From Offerors" provision)

NUMBER OF COPIES TO BE SUBMITTED: One Original and Two (2) Copies marked "COPY" plus (1) Electronic Copy (Original Hardcopy Shall Prevail)

CONFERENCE TYPE: N/A DATE & TIME: N/A (As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions)	LOCATION: N/A
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AWARD & AMENDMENTS	Award will be posted on 02/27/18 . The award, this solicitation, any amendments, and any related notices will be posted at the following web address: http://purchasing.sc.edu/
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You must submit a signed copy of this form with Your Offer. By signing, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of thirty (30) calendar days after the Opening Date. (See "Signing Your Offer" provision.)

NAME OF OFFEROR <i>State Tree Service LLC</i> (full legal name of business submitting the offer)	Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.
AUTHORIZED SIGNATURE <i>Mickey Barnes</i> (Person must be authorized to submit binding offer to contract on behalf of Offeror.)	DATE SIGNED <i>2/19/2018</i>
TITLE <i>owner</i> (business title of person signing above)	STATE VENDOR NO. <i>7000004989</i> (Register to Obtain S.C. Vendor No. at www.procurement.sc.gov)
PRINTED NAME <i>Mickey Barnes</i> (printed name of person signing above)	STATE OF INCORPORATION (If you are a corporation, identify the state of incorporation.)

OFFEROR'S TYPE OF ENTITY: (Check one)		(See "Signing Your Offer" provision.)
<input checked="" type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Other
<input type="checkbox"/> Corporate entity (not tax-exempt)	<input type="checkbox"/> Corporation (tax-exempt)	<input type="checkbox"/> Government entity (federal, state, or local)

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised July 2017)

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 2016 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
1205 Pendleton Street, Suite 367, 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.