

CALIBRATIONS

News from the
Office of the State Engineer

Bid Mistake in Fact vs. Judgement

Part 2

Editor's Note: This article continues the discussion we started in our [March edition](#).

What kind of mistake did Joe make? This was Billy's dilemma. Lacking a bid from an electrical sub, Joe made a judgment call on what he felt would be a comfortable price for the electrical work and added that number into his bid price. Joe's last minute decision resulted in a mistake. This mistake was not a minor informality, or an unintentional error or omission or a mistake of fact, Joe's error was a mistake in *judgement* (ninety percent of responding *DisPatches* readers got it right in a survey). A bidder's mistake in judgement is not generally excusable and does not support a request for bid withdrawal, however, a mistake of *fact* is excusable. Joe has a long history of submitting bids, let's look at another example of a mistake:

It's Tuesday afternoon around 1:43pm and Joe arrives at the bid room early and confident in his bid. Billy accepts the bid and they talk shop for a few minutes as they await the 2:00pm deadline. The door closes and, like always, Billy shouts with a loud voice, "2:00pm bids are closed." Billy proceeds to announce this is the bid opening to supply reinforced concrete pipe of varying diameters for three projects. The bid form is broken into three lots and contracts will be awarded to the low bidder on each lot. The bid form is also structured for unit price bidding. Unit prices are to be listed per pipe joint. As the bids are read aloud Joe begins to get nervous and his palms begin to sweat. All of the bids on Lot 3, except Joe's, are around \$900,000.00. Joe's bid is read last and his bid is considerably lower at \$750,000.00. On the way back to the office all he could think was what went wrong. Back at the office Joe reviews his

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Statewide Contract News

The State Term Contracting Team for Information Technology is looking at establishing **Advisory Groups** for the following future state term contracts:

Cloud Services for IaaS and PaaS

IT Professional Services

Please let Kristen Hutto know if your agency would like to participate at khutto@mmo.sc.gov.

MRO Contracts – The contract sheets have been updated on our **website to reflect the new contract end dates of April 30, 2023, for all three MRO contracts**. There is no change to any of the contract numbers and there will be no interruption of service.

Smallwares - Kelly Cobian (kcobian@mmo.sc.gov) is preparing the solicitation for smallwares, however, additional

needs assessments are underway. More details will be available in the next issue.

Pass Thru Ovens - Kelly Cobian (kcobian@mmo.sc.gov) is preparing the solicitation for a new contract for pass thru ovens and we anticipate an award being effective around the first week of July. More details will be available in the next issue.

Duo - We have decided based on our market research to publish a solicitation in the month of May 2019 with and award date in the month of July 2019. Please contact Randy Barr, Sr., rbarr@mmo.sc.gov or 803-896-5232 if you have any questions or concerns.

Mobile Device Protection – The OSP will be publishing a new STC for Mobile Device Protection in the month of April in response to Proviso 117.148. Mobile device protection

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Statewide Contract News continued

would provide for protecting mobile devices, including but not limited to, cellular phones, tablets, laptops and chrome books. If you have input or questions please contact the Procurement Manager, Randy Barr, Sr., at rbarr@mmo.sc.gov or 803-896-5232.

Mass Notification Services – The OSP has decided not to pursue a new State Term Contract for Mass Notification Software based on our market research at this time. If you have concerns or questions please contact Randy Barr, Sr., at rbarr@mmo.sc.gov or 803-896-5232.

Ruckus Wireless - The OSP will be publishing a solicitation for Ruckus Wireless in the month of May with plans to be awarded in July 2019. Any questions or concerns please contact Randy Barr, Sr., at rbarr@mmo.sc.gov

Proofpoint Software - The OSP will be publishing a solicitation for a new STC for Proofpoint software which is an email protection system that provides encryption and threat detection in June or July. Please express your interest in this product and provide any information, questions or concerns to Carol Norfleet at cnorfleet@mmo.sc.gov or 803-737-3224.

Market Research and Agency Input Requests for NEW State Term Contracts (STC):

The Office of State Procurement (OSP) is seeking input on the following recommendations for new State Term Contracts (STC). If you have any information you can share, please contact the appropriate procurement manager. Our goal is to put contracts in place that will meet your needs, but we need your input to ensure success.

Interagency Mail Services (IMS) (Courier Services) –

A Request for Information (RFI), 5400017527, was issued on March 13, 2019 to request input from the vendor community. The State received four responses to the RFI and is evaluating those responses.

If you have any questions or comments, reach out to Michael Speakmon (mspeakmon@mmo.sc.gov). We will provide further information as it develops.

Athletic team transportation. We were looking at establishing a new STC for transportation of sports teams from higher education institutions to games at other locations. It is our belief that agencies may be able to have these services provided through the new Travel Services contract. We ask that each agency explore this possibility and provide feedback to our office for further consideration. If you have input or questions please contact the Michael Speakmon at mspeakmon@mmo.sc.gov

SolarWinds Monitoring Software - The OSP is currently conducting market research to determine if there is a need to establish a State Term Contract for SolarWinds Monitoring Software. Please share all your information or concerns by **May 22nd** to Randy Barr, Sr., at rbarr@mmo.sc.gov or (803) 896-5232.

Market Research and Agency Input Requests for existing State Term Contracts:

Office Supplies/Truckload Copy Paper (5400017374)

– DeAna Reed-Sharpe (drsharpe@mmo.sc.gov) is currently preparing the new solicitation for office supplies and truck load copy paper, which will be combined into one solicitation. Our anticipated award date is well before the current contract expiration date of September 16, 2019, and we do not anticipate any break between the current and new contracts. If you have any questions or concerns, please reach out to DeAna.

All-Terrain Vehicles – Michael Speakmon (mspeakmon@mmo.sc.gov) is working with the Department of Natural Resources (DNR) to update the specifications for the ATV contracts. If you have any input you would like to provide please contact Michael **before May 15, 2019**.

Written Document Translation and Telephonic Interpretation Services - Current Contract expires

10/31/2019. Market research is being conducted to en-

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SCAGPO
South Carolina Association of
Governmental Purchasing Officials
ESTABLISHED IN 1978



REVERSE TRADE SHOW

WEDNESDAY, MAY 22, 2019
9am-12pm
LEXINGTON MUNICIPAL
CONFERENCE CENTER
111 Maiden Lane
Lexington, SC 29072

WEDNESDAY, JUNE 12, 2019
9am-12pm
FELIX C. DAVIS
COMMUNITY CENTER
4800 Park Circle
North Charleston, SC 29405

\$65.00 per person or
\$100.00 per person for BOTH events.
\$75.00 at the door on the day of each show

Registration information online at: www.scagpo.org
For Information: 803-896-0670
or email Jo Marie Brown at: reversetrade@scagpo.org

An Excellent opportunity for small, minority and veteran owned businesses. This event is also a great networking opportunity for any size business looking to provide goods and services to governmental agencies.

Each show will have many different agencies represented, with staff ready to help you to do business with their Agency. Use this event to increase your networking opportunities and meet with State-Wide Municipalities, Counties, School Districts and State Procurement Agency Officials.

AGENCIES REPRESENTED AT PAST SHOWS INCLUDE:

North Charleston, Lexington, Richland, Spartanburg, Dorchester, Berkeley, Charleston, Florence, Greenville Counties and School Districts, Office of State Procurement, Greenville, Spartanburg, Aiken, York, Orangeburg, Trident and Midlands Technical Colleges, Clemson, University of South Carolina, The Citadel, Winthrop and State Agencies including SLED, DNR, PPP, DDSN, DJJ, SCDC, and many more.

sure that the existing contracts are meeting agency needs and to identify possible improvements. **Please share all information or concerns you may have by May 1st**, so that an informed decision can be made on how to structure the future contracts. If you have input or questions please contact the Procurement Manager, Kelly Cobian, at kcobian@mmo.sc.gov or 803-737-5473 with any questions or concerns. Thank you for your help!

State Term Contracts that will NOT be renewed or resolicited:

ConduSiv Software - The State Term Contract for ConduSiv Software will expire on June 30th. In conducting market research for this software, which includes the DisKeeper defragmentation software product line, as well as V-Locity and Undelete, this office has determined that there is not enough evidence of end-user interest to re-solicit this as a State Term Contract. **If your agency has a continuing need to purchase ConduSiv/DisKeeper software, your urgent input is requested immediately. Please contact Will Butler at wbutler@mmo.sc.gov or Randy Barr at rbarr@mmo.sc.gov with any concerns or other input regarding this decision.**

Currently Published Solicitations:

Body Cameras/In Car Video - The RFP for Body Camera/In Car Video, SaaS; Video Storage was published on March 18th, 2019 with an anticipated award date in early June. Any questions or concerns please contact Randy Barr, Sr., at rbarr@mmo.sc.gov

Police Belts & Holsters (5400017512) – Kelly Cobian (kcobian@mmo.sc.gov) has published the new solicitation for police belts, holsters and accessories. The bid opening is scheduled for May 17, 2019, and the estimated award date is May 26, 2019. All dates are subject to change.

IBM Security Software - The Solicitation has been published and we anticipate awarding in April 2019. If you have any questions or concerns, please contact Kristen Hutto at khutto@mmo.sc.gov

Traffic Signal Heads (5400017675) – Kelly Cobian (kcobian@mmo.sc.gov) published the new solicitation for

traffic signal heads on April 17, 2019, with an anticipated bid opening date of June 5, 2019, and an anticipated award posting date of June 21, 2019. All dates are subject to change.

Cloud Services (5400016870) – OSP recently published a RFP shared services solicitation, for use by the Division of Technology on behalf of proviso Cabinet agencies. It is in the evaluation phase pending award. If you have any input regarding the **future statewide contract for cloud computing IaaS or PaaS**, please contact Kristen Hutto at khutto@mmo.sc.gov or 803-737-7685. You can review the existing solicitation from the following link: <http://webprod.cio.sc.gov/SCSolicitationWeb/contractSearch.do?solicitnumber=5400016870>

We are also looking at establishing an Advisory Group for a future state term contract for IaaS and PaaS. Please let us know if your agency would like to participate.

School Buses – Michael Speakmon (mspeakmon@mmo.sc.gov) published the solicitation for the statewide contract for school buses. Bid opening was scheduled for April 25, 2019, with an estimated award posting on May 9, 2019. All dates are subject to change.

Newly Awarded State Term Contracts (STC):

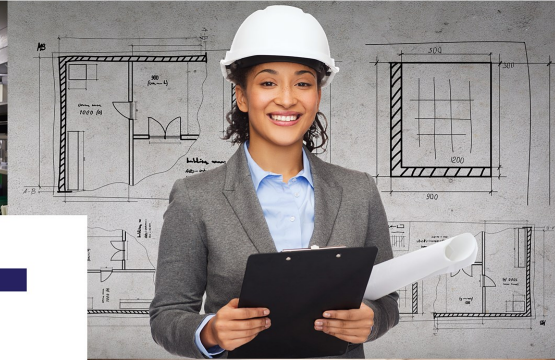
Flags (United States and South Carolina) – The award for the contract for US and SC flags was posted on April 11, 2019, with an effective date of April 26, 2019. Contracts will be active beginning May 6, 2019.

Condoms – Contracts for condoms and contraceptives have been established with two of the three MMCAP vendors, and we are working with the third. The contract sheet, including ordering instructions for each contract, for what is immediately available should be on our website by the time this issue of DisPatches is published. We'll update the contract once the last contract is finalized. For questions or comments, reach out to Michael Speakmon at mspeakmon@mmo.sc.gov

Industrial Gases - New statewide contracts for Industrial, Lab and Medical Gases have been awarded and will begin on May 1, 2019. The contract number for cylinder ex-

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SMBC 2019 **NEXT** LEVEL *Success*



\$40 for Certified Vendors
\$50 for Non-Certified Vendors
Registration: Eventbrite, and smbcc.sc.gov

**MAY
30** 2019

**BROOKLAND BAPTIST
CONFERENCE CENTER**
1066 SUNSET BLVD.
WEST COLUMBIA, SC 29169

REGISTRATION INCLUDES:

- Professional Development Sessions
- Booth Rental
- Lunch
- Networking with public procurement professionals from across the state

Registration and vendor set up will begin at 7:00 am. Opening remarks at 9:00 am

Hosted by the South Carolina Office of Small and Minority Business Contracting and Certification
in collaboration with the Procurement Procedures Committee.

Bid Mistake continued from Page 1

bid and recognizes right away what has happened. For Lots 1 and 2, Joe listed pipe joint prices, depending on pipe diameter, ranging from \$80.00 to \$120. All pipe joints are eight feet long. On the third lot Joe realizes that he has erroneously inserted the per foot price of \$15.00 for the joint price of 18" pipe.

On Lots 1 and 2, Joe's listed unit price for 18" pipe is \$120 per joint. The mistaken bid price on Lot 3 yields an error of \$250,000.00, clearly a mistake that will cause Joe substantial loss. Joe calls Billy to notify him of the mistake and ask to correct his bid explaining the nature of the mistake. What are the factors Billy should consider in reviewing this request?

A mistake of fact results from such things as unintentional arithmetic errors, typographical errors, transposition errors, decimal misplacement, or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid. See Bruner & O'Connor on Construction Law 2:135.

S.C. Code Ann. 11-35-1520(7) states in part:

After bid opening, changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition must not be permitted. After opening, bids must not be corrected or withdrawn except in accordance with the provisions of the code and the regulations promulgated pursuant to it. Except as otherwise provided by regulation, all decisions to permit the correction or withdrawal of bids, ..., must be supported by a written determination of appropriateness made by the chief procurement officers or head of a purchasing agency.

Regulation 19-445.2085

- A A bidder or offeror must submit in writing a request to either correct or withdraw a bid to the procurement officer. Each written request must document the fact that the bidder's or offeror's mistake is clearly an error that will cause him substantial loss. All decisions to permit the correction or withdrawal of bids shall be supported by a written determination of appropriateness made by the chief procurement officers or head of a purchasing agency, or the designee or either.
- B To maintain the integrity of the competitive sealed bidding system, a bidder shall not be permitted to correct a bid mistake after bid opening that would cause such bidder to have the low bid unless the mistake is clearly evident from examining the bid document; for example, extension of unit prices or errors in addition.

Joe will still be the low bidder on Lot 3 if he is allowed to make the correction.

- ◇ Should Billy approve this request? If you are interested in taking a stab at the answer, you may do so anonymously at this [Survey Monkey link](#).
- ◇ For those of you who are math junkies, [how many pipe joints would the \\$250,000.00 create in whole numbers?](#)

We'll continue this series next month with the answers and a new twist on bid mistakes!





Statewide Contract News continued

changes is 4400021178 and the contract number for bulk or micro-bulk delivery is 4400021177. Both contracts have been awarded to AIRGAS USA LLC. End users should contact Gary Burnette with Airgas at 704-644-3288 or gary.burnette@airgas.com for account setup and contract transition information. The current statewide contract with Praxair expires on April 30, 2019. Please also visit the Goods and Services Statewide Contracts page for updated contract sheet information at <https://procurement.sc.gov/agency/contracts/goods-and-services>.

Travel Management Services – The Travel Management Services contract is complete and the details are posted online on our website.

The Contractor, Corporate Travel Management North America, Inc. (CTM), is working with NASPO to add amend the Master Agreement to add coach transportation to the contract. Once this is complete, and incorporated into our participating addendum, this should meet the needs of those users who are looking for athletic or larger transportation needs.

We are also finalizing a process with the vendor to accept a Purchase Order for requirements over \$2500. Once those details are finalized we will update the contract sheet with that information.

Feel free to reach out to the Contractor if you have specific questions about using the contract. His contact information can be found at [here](#).



The **Office of the State Engineer (OSE)** wishes to congratulate **Margaret Jordan, Deputy State Engineer** on her recognition as *2019's South Carolina Engineer of the Year* for the Columbia Chapter

Every year, the Columbia Chapter of the South Carolina Society of Professional Engineers, the state affiliate of the National Society of Professional Engineers, honors a member who has made an outstanding contribution to the profession and the community.

Margaret is very active in her local chapter, especially with outreach efforts such as MATHCOUNTS, a middle school math competition. Margaret is an effective and inspirational public speaker as well. Those of you who attended one of our DPS Roadshow stops will be familiar with her engaging personality.

This chapter recognition places her in the running with her peers among six other chapters to be the *South Carolina Engineer of the Year*. This highest honor from the state Society is given to an engineer who has made outstanding contributions to his or her profession, public welfare, and/or mankind.

Margaret received her Bachelor of Science in Civil Engineering from Georgia Tech in 1984 and her PE license in 1989. She's been with OSE since 1989. Congratulations, Margaret!



What is that "A" in a box all about?

A³ or "A cubed" is our brand! It summarizes our mission statement and serves as an ever present reminder of the commitment the Division of Procurement Services has made to itself, our State Government colleagues, and the public. In short, A³ stands for:

Acquire — We provide efficient, innovative, and responsive services to acquire information technology, construction, and goods and services through effective broad-based competition.

Administer — We provide guidance and oversight to promote integrity, ethical behavior, and increased public confidence in the acquisition process.

Advise — We provide training and advice to ensure compliance with law, policies, and practices.