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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: Source International

Case No.: 2018-163

Posting Date: April 5, 2018

Contracting Entity: State Fiscal Accountability Authority

Solicitation No.: 5400013853

Description: Office Furniture Statewide Term Contract

DIGEST

Untimely protest is denied. Source International's (SI) 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	09/28/2017
Amendment One Issued	10/16/2017
Amendment Two Issued	10/26/2017
Intent to Award Issued	03/16/2018
Protest Received	03/20/2018

ANALYSIS

The State Fiscal Accountability Authority (SFAA) issued this Invitation For Bids (IFB) on September 28, 2017 to establish a state term contract for office furniture. Intent to Awards were issued on March 16, 2018. SI protested on April 3, 2018.

The South Carolina Consolidated Procurement Code authorizes the Chief Procurement Officer to conduct an administrative review of the protest of any actual bidder, offeror, contractor, or subcontractor in accordance with Section 11-35-4210(1)(b) as follows:

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.

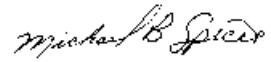
(emphasis added) In this case, the Intent to Award was posted on March 16, 2018. Protests must be received by the Chief Procurement Officer no later than the close of business on the tenth day or, in this case, March 26, 2018. SI's protest was not received until April 3, 2018 and consequently the Chief Procurement Officer lacks jurisdiction to review SI's issues of protest.

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DECISION

For the reasons stated above, the protest of Source International. is denied.

For the Materials Management Office



Michael B. Spicer
Chief Procurement Officer

Attachment 1

From: [Gregg, Stacy](#)
To: [Spicer, Michael](#); [Skinner, Gail](#)
Cc: [Bethany Parks](#)
Subject: FW: SC Solicitation #5400013853 Office Furniture
Date: Tuesday, April 03, 2018 9:02:27 AM

Good Morning,

I am forwarding this protest to you.

sg

From: Bethany Parks [mailto:bparks@sourceinternationaldesign.com]
Sent: Tuesday, April 03, 2018 7:55 AM
To: Gregg, Stacy
Cc: Skip Dunaway; Bethany Parks
Subject: SC Solicitation #5400013853 Office Furniture

Stacy,

Please accept this communication as a protest to not being included in the South Carolina Office Furniture Statewide Contract. Source International has been a successful vendor on this contract for a number of years. Our bid documents were submitted complete and on time.

We manufacturer products that are very relevant and appropriate for use in all offices.

Please let me know if there is anything else that I need to do in order to protest this award.

Bethany Parks
National Sales Manager

-----Original Message-----

From: sgregg@mmo.sc.gov <sgregg@mmo.sc.gov>
Sent: Friday, March 23, 2018 5:29 PM
To: CR <cr@sourceinternationaldesign.com>
Subject: Suspension: OFFICE FURNITURE STATEWIDE CONTRACT

Notice of Intent to Award - Suspended March 23, 2018 The Notification of Award is Hereby Suspended Pending the Administrative Review in Response To A Protest. Bidder's right to protest as listed in section 11-35-4210 in the South Carolina Consolidated Procurement Code applies to this award.

The Award is available on the State Web site and can be accessed from the following address:

<https://webprod.cio.sc.gov/SCSolicitationWeb/contractSearch.do?solicitnumber=5400013853>

Solicitation Number: 5400013853
Description: OFFICE FURNITURE STATEWIDE CONTRACT

Sincerely,
STACY GREGG
South Carolina State Government

Bethany Parks
National Sales Manager
Source International
518 369 3663

sourceinternationaldesign.com

SOURCE

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.