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Protest Decision

Matter of: Special-T, LLC

Case No.: 2019-129

Posting Date: March 27, 2019

Contracting Entity: State Fiscal Accountability Authority

Solicitation No.: 5400013739

Description: Educational Furniture State Term Contract

DIGEST

Untimely protest of specifications is denied. Special-T's 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

Solicitation Issued	09/08/2017
Amendment 1 Issued	10/05/2017
Amendment 2 Issued	10/24/2017
Amendment 3 Issued	11/01/2017
Amendment 4 Issued	01/10/2018
Amendment 5 Issued	01/22/2018
Amendment 6 Issued	02/05/2018
Amendment 7 Issued	04/04/2018
Amendment 8 Issued	04/10/2018
Initial Awards Posted	05/09/2018
Latest Bid Submission	02/04/2019

ANALYSIS

The State Fiscal Accountability Authority issued this fixed-price bid on September 8, 2018, for educational furniture. The original solicitation was amended eight times and the initial awards were posted on May 9, 2018. The solicitation sought bids from manufacturers that could provide furniture in eleven different categories:

- Cafeteria Furniture
- Classroom Furniture
- Computer Lab Furniture
- Healthcare Furniture
- Dormitory/Housing Furniture
- Library/Media Center Furniture
- Locker Room Furniture
- Music Room Furniture
- Playground Seating/Outdoor Furniture
- Fixed Seating
- High Density Storage & Shelving Units

The solicitation specified that award would be made by complete category:

AWARD BY CATEGORY (JAN 2006) - Modified

Award will be made by complete category. Under the terms of the resulting contracts, Offerors may provide only the items included in the category or categories for which they possess an award. [06-6015-1]

[Amendment 8, Page 29] (emphasis added)

The bidding schedule includes the following instructions:

Item Description: Percent Discount on Educational furniture ordered. from ~~Manufacturer's Authorized Dealer/Reseller(s)~~. The State's Minimum Discount Required is 50 Percent from the Manufacturer's List Price. The minimum 50% discounted price must include product, shipping, standard delivery, administrative fee and dealer compensation. At a minimum, Offerors must demonstrate the ability to offer the items listed within the category for which they would like to be awarded. Offerors shall bid on each category by providing their percentage discount from list. Discounts less than the required minimum discount will not be accepted. The products for which the Contractor cannot meet the minimum shall not be eligible for purchase under this contract. All educational furniture products in the catalog meeting the required minimum discount may be offered and eligible for purchase under the contract.

[Amendment 8, Page 45] (strikethrough in original, emphasis added)

Each category begins with a statement that "At a minimum, Offerors must demonstrate the ability to provide" followed by an all-inclusive list of items that might include desks, tables, chairs, carpets, rugs, storage carts, cabinets, etc. For example, the Computer Lab Furniture category required:

At a minimum, Offerors must demonstrate the ability to provide tables, desks, audio visual carts, lecterns and podiums, flat panel and television carts, desks, tables, work stations, ~~projector & television mounts~~, presentation carts, and technology storage. Category may include Training Room Tables and Furniture.

[Amendment 8, Page 46] (strikethrough in original, underline added for emphasis) The category lists were never limited to one item.

Special-T bid the Cafeteria Furniture, Classroom Furniture, Computer Lab Furniture, Dormitory/Housing Furniture, and the Library/Media Center Furniture categories.

As stated in its letter of protest Special-T only manufactures tables:

- Special-T is a table manufacturer offering tables ins (sic) Cafeteria, Classroom, Computer Lab / Media Center and other applications. Because Special-T does not provide all other accessories and products listed in the bid categories, we should not be excluded from participating in the contract.

And because Special-T bid only tables, it was disqualified for award.

In the public procurement arena, the solicitation establishes not only the requirements to be met but also the rules by which the competition will be conducted. In this case the solicitation indicated that award would be made by complete category. The solicitation provided potential participants several opportunities to ask questions and suggest changes to the solicitation as evidenced by the eight amendments. If a participant believes that it is aggrieved by a solicitation or an amendment, it has 15 days to file a protest with the CPO. S.C. Code Ann. § 11-35-4210(1)(a). However, the Code also prohibits a bidder from raising an issue after award that it could have raised as a protest of the solicitation or amendments.

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.

S.C. Code Ann. § 11-35-4210(1)(b) (emphasis added)

Special-T could have asked for a change to the solicitation that would have allowed it to submit a bid on part of a category instead of the whole category, but did not.

DECISION

For the reasons stated above, the protest of Special-T, LLC is dismissed as untimely.

For the Materials Management Office



Michael B. Spicer
Chief Procurement Officer

Attachment 1



February 7, 2019

SFAA Procurement Services, MMO
Mike Spicer, Chief Procurement Officer
1201 Main Street, Ste 600
Columbia, SC 29201

RE: Special-T Protest of Non-Award for Solicitation # 5400013739 for Educational Furniture Statewide Contract

Please accept this letter as Special-T's protest of non-award for to your Education Furniture Statewide Solicitation, #5400013739. Special-T is the manufacturer of the products offered, and we responded to the solicitation with all required forms and information.

Special-T, LLC
11820 Wills Road, Ste 140
Alpharetta, GA 30009
PH: 888-705-0777
Email: tatiana@specialt.net
Website: www.specialt.net

Special-T read the solicitation and agree to the terms and conditions. Special-T is in receipt of amendments 1 thru 8. This includes Section V. Qualifications. Our dedicated contract web page can be found at: www.specialt.net/sc-bid

- Special-T has been on a South Carolina contract for 10 years (contract number 4400006595). We greatly appreciate this contract, and it is used quite often by numerous in-state agencies, such as Clemson University, Darlington High School, Winthrop University, Central Carolina Technical College, York County Courthouse, Fort Mill School District, University of Southern Carolina, Public Service Commission of SC, Horry Georgetown Technical College, SCDHHS and many more. **Not being on the contract will create a difficulty for these customers to match existing furniture.**
- Special-T is a table manufacturer offering tables ins Cafeteria, Classroom, Computer Lab / Media Center and other applications. Because Special-T does not provide all other accessories and products listed in the bid categories, we should not be excluded from participating in the contract.
- Special-T is a located in a neighboring state and our 1-Day Quick Ship program allows expedited furniture delivery.
- For over 10 years, Special-T has held a GSA contract and numerous other state contracts including California, North Carolina, Alabama, Mississippi and Pennsylvania.

The State of South Carolina is very important to the success of Special-T and our dealer partners. We respectfully request a review of our bid, our product line, and inclusion in the award process for this contract. We are open to a phone conversation to further our discussion. Please see the list of references on the following page. We look forward to hearing from you. I can be reached at tatiana@specialt.net or 404-630-6406.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Rodoslavova".

Tatiana Rodoslavova
Vice President Business Development

11820 Wills Road • Suite 140 • Alpharetta, GA 30009
Toll Free 888.705.0777 • Local 678.879.0777 • Fax 678.456.6046



Special-T References

1. Winthrop University
Kelly Huber
Phone: 803-323-2264
huberk@winthrop.edu
2. York County Courthouse
Angie Smarr
Phone: 803-628-3036
angie.smarr@yorkcountygov.com
3. Fort Mill Schools
Joseph Romenick (Procurement Officer)
803-547-2527
romenick@fort-mill.k12.us
Debi Gnatt (Procurement Specialist)
Phone: 803-548-8082
gnattd@fort-mill.k12.us
4. Beaufort County Schools
Carol Crutchfield
Phone: 843-322-0716
carol.crutchfield@beaufort.k12.sc.us
5. Berkeley County School District
Ashley Cash (Construction Procurement)
Phone: 843-899-8202
casha@bcdschools.net
Crystal Queen (Capital Projects Administrator)
843-899-8392
queenc@bcdschools.net
6. SC School for the Deaf and Blind in Spartanburg
Jen Stanion
Phone: 864-577-7745
istanion@scsdb.org
7. Dorchester School District
Rhonda Grice
rgrice@dorchester.k12.sc.us
8. Colleton County Schools
Bells Elementary School
Kenny Blakeney
843-782-4523

SPECIAL 
TABLES & BASES

9. Florence School District 1
Lionel Brown (Asst Supt)
843-669-4141
lbrown@fsd1.org
Julie Smith (Principal)
843-664-8159
jcsmith@fsd1.org

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised June 2018)

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 2018 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.