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GRANT GILLESPIE
EXECUTIVE DIRECTOR

Protest Decision

Matter of: Security Management of SC, LLC

Case No.: 2019-139

Posting Date: May 17, 2019

Contracting Entity: South Carolina Department of Health and Human Services

Solicitation No.: 5400015735

Description: Security Guard Services for SCDHHS

DIGEST

Protest that awarded bidder does not qualify for the Resident Contractor Preference is granted. Security Management of SC's (SMSC) 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	03/14/2019
Amendment 1 Issued	03/20/2019
Amendment 2 Issued	03/27/2019
Intent to Award Issued	04/18/2019
Protest Received	04/29/2019

The South Carolina Department of Health and Human Services issued this Invitation for Bids to acquire security guard services on March 14, 2019. Five bids were received on April 4, 2019. J M B Security & Meritus Solutions Group, LLC (JMB) was determined to be the lowest responsive and responsible bidder with a price of \$192,160. SMSC was the second lowest at \$194,320. Both SMSC and JMB claimed the Resident Contractor Preference as authorized in Section 11-35-1524 of the Code. An Intent to Award was posted in favor of JMB on April 18, 2019. SMSC protests that JMB does not qualify for the South Carolina Resident Contractor Preference and, if properly applied, SMSC is the lowest bidder.

ANALYSIS

SMSC protests that JMB does not qualify for the resident contractor preference:

Security Management of SC, LLC respectively submits this protest in response to solicitation 5400015735 Intent to Award dated April 18th, 2019. The Invitation to Bid issued March 14th, 2019 included the Resident Contractor Preference (RCP) on page 2, and subsequently explained on pages 11, and 12. According to South Carolina General Assembly, 118th Session, 2009-2010, A72, R55, S116, Subsection (C)(2), preferences must be applied to the price of each line item of work, which have a minimum total value, based on the bid price, less than fifty thousand dollars. The awarded contractor does not qualify for the RCP preference. With this preference applied to line Item 1 of the solicitation, Security Management of SC would be lower in cost by \$754.80 yearly and \$3,774 for maximum contract term. Thank You for Your Consideration.

(emphasis added) In response to an inquiry by the CPO, SMSC explains that the address used by JMB is a personal residence with no employees staffed at the location. (Attachment 2) JMB responds:

JMB Security and Meritus Solutions Group dba Viribus is a South Carolina registered company currently doing business in Columbia, South Carolina. We

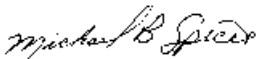
hold an office in a residence at 3830 Davies Drive where we have an office dedicated to our company. As Viribus is an unpopulated joint venture, Viribus does not have any direct employees. Therefore, Viribus does not claim residency preference, and did not claim this status in our proposal.

(Attachment 3) A review of the bid submitted by JMB through the South Carolina Enterprise Information System (SCEIS) indicates that JMB did request the Resident Vendor Preference. Section 11-35-1524 requires a bidder applying for the Resident Vendor Preference to maintain an office in this State and in order to qualify as an office it must be staffed for at least fifty weeks by at least two employees for at least thirty-five hours a week each. JMB indicates that it does not qualify for and did not intend to request the preference. Consequently, the award based on application of the Resident Vendor Preference to the benefit of JMB Security & Meritus Solutions Group, LLC is in error.²

DECISION

The award to JMB Security & Meritus Solutions Group, LLC is vacated and the procurement is remanded to the agency for award in compliance with the Code.

For the Materials Management Office



Michael B. Spicer
Chief Procurement Officer

² Bidders are cautioned to heed Section 11-35-1524(E)(6), which provides that “a business may be debarred if (i) the business certified that it qualified for a preference, (ii) the business is not qualified for the preference claimed, and (iii) the certification was made in bad faith or under false pretenses.”

Attachment 1

From: [Adrian Peters](#)
To: [Spicer, Michael](#)
Cc: [Paul Gillam](#); [Randy Sturkey](#)
Subject: [External] Solicitation: 5400015735 PROTEST
Date: Monday, April 29, 2019 4:41:40 PM
Attachments: [image001.png](#)

Solicitation: 5400015735
DESCRIPTION: Security Guard Services for SCDHHS
USING GOVERNMENTAL UNIT: Department of Health & Human Services

ATTN: Mike Spicer
Chief Procurement Officer
mspicer@mmo.sc.gov
Procurement Services
1201 Main St., Suite 600
Columbia, SC 29201

SUBJECT: Bid Protest

Dear Mr. Spicer,

Security Management of SC, LLC respectively submits this protest in response to solicitation 5400015735 Intent to Award dated April 18th, 2019. The Invitation to Bid issued March 14th, 2019 included the Resident Contractor Preference (RCP) on page 2, and subsequently explained on pages 11, and 12. According to South Carolina General Assembly, 118th Session, 2009-2010, A72, R55, S116, Subsection (C)(2), preferences must be applied to the price of each line item of work, which have a minimum total value, based on the bid price, less than fifty thousand dollars. The awarded contractor does not qualify for the RCP preference. With this preference applied to line item 1 of the solicitation, Security Management of SC would be lower in cost by \$754.80 yearly and \$3,774 for maximum contract term. Thank You for Your Consideration.

Regards,

Adrian Peters

Vice President of Sales
Security Management of SC
HQ-2712 Middleburg Dr-Suite 207
Columbia, SC 29204
C-803.397.7522



www.securitymanagementsc.com

Attachment 2

From: [Adrian Peters](#)
To: [Spicer, Michael](#)
Cc: jamie@meritussolutionsgroup.com; "Andrew.Jackson@scdhhs.gov"; [Paul Gillam](#); [Randy Sturkey](#)
Subject: [External] RE: In the Matter of the Protest of Security Management of SC, LLC, Case 2019-139
Date: Thursday, May 02, 2019 2:12:15 PM

Mr. Spicer,

Thank you for your attention in this matter. Security Management prides itself on focusing on the best interests of our clients and employees. While assisting JMB Security & Meritus Solutions Group, LLC by allowing our incumbent Security Officers to be retained, Security Management personnel were made aware of the possible preference disqualifications.

As stated in Solicitation 5400015735, page 11, Section II, and in Section 11-35-1524 of the South Carolina Code of Laws, to qualify for the preference a contractor must maintain an office in this state. The office must be a non-mobile place for the regular transaction of business or performance of a particular service which has been operated as such by the bidder for at least one year before the bid opening and during that year the place has been staffed for at least fifty weeks by at least two employees for at least thirty five hours a week each. In addition, the contractor must, at the time they submit their bid, directly employ, or have a documented commitment with, individuals domiciled in South Carolina that will perform services expressly required by the solicitation and the contractor's total direct labor cost for those individuals to provide those services must exceed fifty percent of the contractor's total bid price.

The address 3830 Davies Drive, Columbia, SC 29223, was provided to an officer via text by Brian Webb. When the officer visited the address to research the employment opportunity, he observed that it was a personal residence. He then shared this information with Richard Mallon, a Security Management Operations Manager, to gain clarification. Richard Mallon then visited the address to confirm the officer's observations. Richard knocked on the front door and was shortly greeted by a Mrs. Webb who claimed to be the mother of Brian Webb, Principal of JMB Security & Meritus Solutions Group, LLC. She then explained that Brian lives in Georgia, keeps an office in her house, does not conduct business there, and has no employees staffed at the location.

3830 Davies Drive, Columbia, SC 29223:



Additionally, while assisting JMB Security & Meritus Solutions Group, LLC during the transition, a Security Management executive had multiple conversations with Michael Brown, Chief Executive Officer of Meritus Solutions Group, living and working in Virginia. During a conversation Michael explained that they currently had no employees hired to perform the services required by the solicitation, and therefore requested Security Management to allow and support a transition of all Security Management incumbent officers.

Regards,

Adrian Peters

Vice President of Sales
Security Management of SC
HQ-2712 Middleburg Dr-Suite 207
Columbia, SC 29204
C-803.397.7522

From: Spicer, Michael <mspicer@mmo.sc.gov>
Sent: Thursday, May 2, 2019 11:49 AM
To: Adrian Peters <a.peters@securitymanagementsc.com>
Cc: jamie@meritussolutionsgroup.com; 'Andrew.Jackson@scdhhs.gov' <Andrew.Jackson@scdhhs.gov>; Spicer, Michael <mspicer@mmo.sc.gov>
Subject: In the Matter of the Protest of Security Management of SC, LLC, Case 2019-139

Mr. Peters,

In your protest you allege that JMB Security & Meritus Solutions Group, LLC does not qualify for the Resident Contractor Preference. Can you explain exactly why you believe JMB does not qualify for the

preference?



Michael B. Spicer | Information Technology Management Officer
Division of Procurement Services | SC State Fiscal Accountability Authority
1201 Main Street, Suite 600 | Columbia, SC 29201 | Office: (803) 896-5225 | mbspicer@mms.sc.gov

Attachment 3

From: [Jamie Raymond](#)
To: [Spicer, Michael](#)
Cc: ["Andrew.Jackson@scdhhs.gov"](mailto:Andrew.Jackson@scdhhs.gov)
Subject: [External] RE: In the Matter of the Protest of Security Management of SC, LLC, Case 2019-139
Date: Monday, May 06, 2019 2:35:52 PM

Mr. Spicer,

As we have not received any instructions on the next steps, Viribus provides the below response to the allegations made by Security Management of SC.

JMB Security and Meritus Solutions Group dba Viribus is a South Carolina registered company currently doing business in Columbia, South Carolina. We hold an office in a residence at 3830 Davies Drive where we have an office dedicated to our company. As Viribus is an unpopulated joint venture, Viribus does not have any direct employees. Therefore, Viribus does not claim residency preference, and did not claim this status in our proposal. We feel our low price and proposed quality assurance and management plans provide the best value to the state of South Carolina and the Department of Health and Human Services, and we are confident in our re-award of this contract based on these factors.

Meritus Solutions Group currently employs 6 individuals in the Columbia, South Carolina region, including an Area Manager, and has a large pool of applicants ready to work. It is our standard operating procedure, and in alignment with federal acquisition regulations, that we provide the first right of refusal to all incumbent employees in order to not displace current employees and to maintain the continuity of operations currently in place. We feel this is in the best interest of the state and their employees and allows for a smooth transition to a new contractor. If incumbent employees wish to maintain their employment with the incumbent and leave the work site, we then fill the position with one of the many applicants from our pool.

Please advise the next steps in the protest process, and let us know if we can provide any further information.

Thank you,
Jamie Raymond
VP Business Solutions
Meritus Solutions Group

T: [571-459-2895](tel:571-459-2895) | M: [571-345-5711](tel:571-345-5711) | E: jamie@meritussolutionsgroup.com
[10400 Eaton Place, Suite 215](#)
[Fairfax, VA 22030](#)
<https://meritussolutions.com>

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From: Adrian Peters <a.peters@securitymanagementsc.com>
Sent: Thursday, May 2, 2019 2:12 PM
To: Spicer, Michael <mspicer@mso.sc.gov>
Cc: Jamie Raymond <jamie@meritussolutionsgroup.com>; 'Andrew.Jackson@scdhhs.gov' <Andrew.Jackson@scdhhs.gov>; Paul Gillam <p.gillam@securitymanagementsc.com>; Randy Sturkey <r.sturkey@securitymanagementsc.com>
Subject: RE: In the Matter of the Protest of Security Management of SC, LLC, Case 2019-139

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.