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Protest Decision

Matter of: TriTek Fire & Security, LLC

Case No.: 2019-144

Posting Date: May 24, 2019

Contracting Entity: South Carolina Department of Disabilities & Special Needs

Solicitation No.: 5400017543

Description: Agency Wide DDSN Owned Community Facilities Annual Fire Alarm Testing & Maintenance

DIGEST

Protest of improper bid acceptance is denied for lack of jurisdiction. TriTek Fire & Security's (TFS) 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	03/19/2019
Amendment 1 Issued	04/22/2019
Award Posted	05/15/2019
Protest Received	05/23/2019

ANALYSIS

TFS protests that the solicitation required bids to be submitted in hardcopy form only and alleges that the successful bidder, Fire Control Systems of Charlotte, submitted its bid online instead of in hardcopy form and its bid should have been disqualified.

The total potential value of the award to Fire Control Systems of Charlotte is \$36,300.00. The Consolidated Procurement Code grants actual bidders, offerors, contractors, or subcontractors the right to protest the award or intended award of a contract but Section 11-35-4210(1)(d) limits the right to protest to awards greater than \$50,000:

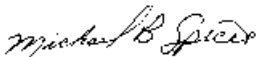
The rights and remedies granted by subsection (1) and Section 11-35-4410(1)(b) are not available for contracts with an actual or potential value of up to fifty thousand dollars.

Consequently, the Chief Procurement Officer lacks jurisdiction to review the merits TFS' protest.

DECISION

For the reasons stated above, the protest of TriTek Fire & Security, LLC is dismissed for lack of jurisdiction.

For the Materials Management Office



Michael B. Spicer
Chief Procurement Officer

TRITEK
Fire, Security & Communications

A Subsidiary of TriTek Fire & Security, LLC

WWW.TRITEKFIRE.COM

6 Woodcross Drive
Columbia, South Carolina 29212
Tel (803) 407-0747
Fax (803) 407-0779
Watts (888) 874-8353

1212 Broad Street
Augusta, Georgia 30901
Tel (706) 722-4464
Fax (803) 407-0779
Watts (888) 874-8353

May 23, 2019

To: The Chief Procurement Officer
1201 Main Street, Suite 600
Columbia, SC 29201

Subj: Solicitation #5400017543 Award and Protest

Dear Sirs,

TriTek Fire & Security, LLC has been notified of your intent to award the solicitation #5400017543 DDSN Facilities Fire Alarm Inspection to Fire Control Systems of Charlotte.

TriTek Fire & Security, LLC wishes to formally protest this award based on the following information:

I personally attended not only the bid opening but pre-bid meeting as well. The company attended neither of these dates. I have been informed the Fire Control Systems of Charlotte submitted their bid "online". The solicitation states the front page must be signed and returned with offer. Under "Dead Line for Submission of Offer" states after the bid closing time all offers are rejected unless already delivered to the designated purchasing office or in its associated mail room. There is no mention of any "online" submission process. All of this was covered in the pre-bid meeting which the other contractor failed to attend. It is also very apparent they failed to follow the instructions in the bid package. Due to this we feel we have no other recourse but to protest this award.

Relief Requested. Due to all other offerors attending the bid opening and all bids being disclosed at the opening. The apparent failure of Fire Control Systems of Charlotte to follow the instructions in the bid package as well. TriTek Fire & Security, LLC is requesting the solicitation be awarded to TriTek.

If anyone has any questions please do not hesitate to contact our offices.

Best Regards,



Tom Magill
General Manager
TriTek Fire & Security, LLC

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.