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## Protest Decision

**Matter of:** Credentials Solutions, LLC

**Case No.:** 2019-206

**Posting Date:** January 16, 2019

**Contracting Entity:** State Fiscal Accountability Authority

**Solicitation No.:** 5400016422

**Description:** Electronic Transcript Services

### DIGEST

Protest of a non-responsiveness determination is denied. Credentials Solutions' (CS) protest is included by reference. [Attachment 1]

### AUTHORITY

The Chief Procurement Officer (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.

### BACKGROUND

Solicitation Issued  
Amendment 1 Issued

October 30, 2018  
November 5, 2018

Amendment 2 Issued  
Intent to Award Posted  
Protest Received

November 20, 2018  
December 14, 2018  
December 24, 2018

The State Fiscal Accountability Authority (SFAA) issued this Invitation for Bids (IFB) to establish a statewide term contract to provide an electronic transcript services for use by all post-secondary education institutions. Credentials Solutions protested the procurement officer's determination that Credentials Solutions' bid was non-responsive.

## ANALYSIS

This solicitation was an IFB and requested bidders provide a unit and extended pricing for three line items. The solicitation required that "pricing provided by the contractor shall include all costs for performing the work associated with that price" and that "contractor's price shall be fixed for the duration of this contract, including option terms." The solicitation clearly indicated that the award would be based on the sum of the extended price of all three line items.

Two of the line items expressly requested shipping costs—one for domestic and one for overseas. For those two line items, Credentials Solutions submitted a unit price of "\$1.75 plus USPS postage or FedEx Next Day Air Costs" and an extended price of "\$87,500 plus current USPS domestic ground rates or FedEx Next Day Air Rates. Use of Credentials FedEx account offers discounted FedEx Rates from retail rates." (Attachment 2) The procurement officer rejected Credentials Solutions' bid in accordance with Regulation 19-445.2070(D)(1)(c) which states:

19-445.2070(D)(1) Ordinarily a bid should be rejected when the bidder attempts to impose conditions which would modify requirements of the invitation for bids or limit his liability to the State, since to allow the bidder to impose such conditions would be prejudicial to other bidders. For example, bids should be rejected in which the bidder:

(c) states a price but qualified such price as being subject to "price in effect at time of delivery;"

(Attachment 3)

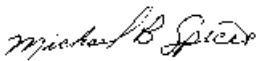
Credentials Solutions protests that it bid a firm price, “in that USPS rates are firm, consistent and public knowledge.” While today’s USPS and FedEx Next Day Air Rates are firm, consistent and public knowledge, there is no guarantee that these rates will remain the same for the five-year duration of the contract. In addition, Credentials Solutions acknowledges that “USPS rates do vary by package weight, which is why a firm number was not listed.”

This is a one-year contract with four one-year renewal options. The solicitation asked for a firm fixed price for the duration of the contract. The procurement officer correctly rejected Credentials Solutions’ bid for failure to state a firm fixed price.

## **DECISION**

For the reasons stated above, the protest of Credentials Solutions, LLC is denied.

For the Information Technology Management Office



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Michael B. Spicer  
Chief Procurement Officer

## Attachment 1



1 Northfield Plaza, Suite 501  
Northfield, IL 60093  
credentialsolutions.net

Main 847.716.3000  
Service 847.716.3005  
Fax 847.716.3001

### **Protest to State of South Carolina Procurement for IFB, Solicitation #5400016422**

We are writing in connection with the State of South Carolina's vendor selection process for electronic transcripts. Please accept this formal notice of Protest regarding the State of South Carolina IFB, Solicitation #5400016422.

This Protest is in regards to deeming Credentials as "Non-Responsive" for a Pricing Discrepancy. The discrepancy, as explained, is within line items 0003 and 0004 for "Shipping Cost for Domestic" and "Shipping Cost for Overseas" for not listing a firm number in the total costs. We listed as \$1.75 plus current USPS domestic ground rates. We argue that this is a firm number, in that USPS rates are firm, consistent and public knowledge. USPS rates do vary by package weight, which is why a firm number was not listed.

Credentials requests the decision to deem Credentials Response as "Non-Responsive" to be reversed and allow Credentials' response be included in the final decision.

We find this request necessary and reasonable for the following reasons:

Following submission of our bid response, Credentials Solutions was contacted the same day by the State's Procurement Officer, Randy Barr. The purpose of the call was to clarify the pricing for the line items (#0002 & #0003) we submitted for Section VIII. Bidding Schedule / Price-Business Proposal. During this inquiry, no mention was made that our response would be deemed "Non-Responsive" for Pricing Discrepancy.

On 12/10/18, Credentials received an email from Mr. Barr requesting additional information, specifically for clarification on insurance coverages and requesting Financial Statements. Mr. Barr followed the email with a call to Credentials to discuss this request. During this call, additional clarification was asked regarding the pricing Credentials submitted. Again, no mention was made that our response would be deemed "Non-Responsive" for Pricing Discrepancy. In addition, we were notified that the award date would be extended to allow time to review our insurance and financials.

On 12/11/18, Credentials had a third call with Mr. Barr to confirm the items needed with Financials and Insurance. During this call, Mr. Barr asked again for clarification of pricing for Line items 0002 & 0003. This was explained and we asked if he needed anything in writing. We were told the pricing was "understood" and sending a written clarification was not necessary.

On 12/12/18, Credentials received a call from Mr. Barr and was notified that our bid was disqualified and deemed "Non Responsive" due to the pricing discrepancy.

We dispute the basis of "Non Responsive" as the price proposed is not subjective, but rather represents an actual cost which is controlled and posted by the United States Postal Service. Therefore, \$1.75 plus current USPS rates is a firm number.

Further, if we, Credentials Solutions, were going to be disqualified for this purpose, why were we allowed and even prompted to supply additional information, after the submission date, with our financials? Why was the date for award extended to allow time to review our information? Why were we not disqualified immediately following first review of our response?

Based on this information, we feel the South Carolina Procurement Office has not treated this solicitation fairly and is not acting in the best interest of the State of South Carolina in the vendor selection process.

Credentials Solutions can provide an equal, if not superior, service for the state institutions in the state of South Carolina at a far less cost than the decision that was made in the Intent to Award. The vendor selected quoted \$2.85 per electronic transcript. This is \$0.50 more per transcript, than what was quoted by Credentials. This is \$50,000 per year more (at a minimum) that the state will be paying based on the 100,000 transcript minimum volume that the bid detailed. If the vendor selected is renewed for the 4 additional year that the contract calls for, then it is a minimum of \$250,000 of additional funds being spent by state institutions for an equal service.

Regards,

David Raissle, Vice President of Sales  
Credentials Solutions, LLC

**VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL****BIDDING SCHEDULE (MODIFIED)**

Please ensure that you submit a bid price for each line item listed below in the bid schedule. The quantity listed below does not represent total annual sales in the State of South Carolina, but rather being utilized for evaluation purposes. The Award will be made to the lowest responsible and responsive bidder(s) having the lowest total bid price on the bid sheet. Offeror **MUST** provide a price for each line item listed on the bid schedule to be considered for an award. **FAILURE TO BID ON ALL LINE ITEMS SHALL DEEM THE OFFEROR AS NON RESPONSIVE.**

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0001	Each	100,000	\$2.35/Transcript	\$235,000
Product Catg.: 91528 - Electronic Information and Mailing Services				
Item Description: Transcript Services Request				
Internal Item Number: 1				
Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0002	Each	50,000	\$1.75 plus USPS postage or FedEx Next Day Air Costs	\$87,500 plus current USPS domestic ground rates or FedEx Next Day Air Rates. Use of Credentials FedEx account offers discounted FedEx Rates from retail rates.
Product Catg.: 91528 - Electronic Information and Mailing Services				
Item Description: Shipping Cost for Domestic				
Internal Item Number: 2				
Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0003	Each	50,000	\$1.75 plus USPS postage or FedEx Next Day Air Costs	\$87,500 plus current USPS domestic ground rates or FedEx Next Day Air Rates. Use of Credentials FedEx account offers discounted FedEx Rates from retail rates.
Product Catg.: 91528 - Electronic Information and Mailing Services				
Item Description: Shipping Cost for Overseas				
Internal Item Number: 3				

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**Memorandum for Record  
Determination of Non-Responsive Offer  
Request for Proposal 5400016422  
STATEWIDE CONTRACT FOR ETS**

**Offer Submitted By: Credentials Solutions, LLC**

The following are excerpts from the original State solicitation, SC Consolidated Procurement Code, and SC Procurement Regulations relevant to the Determination of Non-Responsiveness:

Per the South Carolina Code of Regulation, "Ordinarily a bid should be rejected when the bidder attempts to impose conditions which would modify requirements of the invitation for bids or limit his liability to the State, since to allow the bidder to impose such conditions would be prejudicial to other bidders." [19-445.2070, D (1)]. States a price but qualified such price as being subject to "price in effect at time of delivery" [19-445.2070, D (1c)].

In order to be awarded a contract, a bidder must be responsive S.C. Code Ann. 11-35-1520(10) and 11-35-1530(7). The South Carolina Consolidated Procurement Code ("Code") defines a responsive bidder as one "who has submitted a bid or offer which conforms in all material aspects to the invitation for bids or request for proposals" Section 11-35-1410(7).

1. Solicitation document dated 11/20/2018, (Page 8) states:

**DUTY TO INQUIRE (FEB 2015)**

Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror's risk. All ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation shall be interpreted to require the better quality or greater quantity of work and/or materials, unless otherwise directed by amendment. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the State's attention. See clause entitled "Questions from Offerors." [02-2A070-2]

**RE: Credentials did not inquire prior to bid opening concerning any questions it had pertaining to the price schedule.**

2. Solicitation document dated 11/20/2018, (Page 10) states:

**RESPONSIVENESS/IMPROPER OFFERS (JUN 2015)**



(a) Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation.

(c) Responsiveness. Any Offer which fails to conform to the material requirements of the Solicitation may be rejected as nonresponsive. Offers which impose conditions that modify material requirements of the Solicitation may be rejected. If a fixed price is required, an Offer will be rejected if the total possible cost to the State cannot be determined. Offerors will not be given an opportunity to correct any material nonconformity. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer. [R.19-445.2070 and Section 11-35-1520(13)]

**RE: Credentials did not provide a total price.**

3. Solicitation document dated 11/20/2018, (Page 21) states:

**AWARD CRITERIA -- BIDS (MODIFIED)**

Award will be made to the lowest responsible and responsive bidder(s) having the lowest total bid price on the bid sheet in Section Eight (8). **The total sum of line one through three extended prices together determines the lowest bid.**

Offeror **MUST** provide a price for each line item listed on the bid schedule to be considered for an award.

**FAILURE TO BID ON ALL LINE ITEMS SHALL DEEM THE OFFEROR AS NON RESPONSIVE.**

[06-6020-1]

**RE: Credentials did not provide an absolute price to be able to determine a total sum.**

4. Solicitation document dated 11/20/2018, (Page 40) states:

**BIDDING SCHEDULE (MODIFIED)**

**Please ensure that you submit a bid price for each line item listed below in the bid schedule.** The quantity listed below does not represent total annual sales in the State of South Carolina, but rather being utilized for evaluation purposes. The Award will be made to the lowest responsible and responsive bidder(s) having the lowest total bid price on the bid sheet. Offeror **MUST** provide a price for each line item listed on the bid schedule to be considered for an award. **FAILURE TO BID ON ALL LINE ITEMS SHALL DEEM THE OFFEROR AS NON RESPONSIVE.**

**RE: Credentials did not provide an absolute price to be able to determine a total extended price.**

5. The following are excerpts from the SC Consolidated Procurement Code, and SC Procurement Regulations relevant to the

**§ 11-35-1520: COMPETITIVE SEALED BIDDING:**

(7) Correction or Withdrawal of Bids; Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids before bid opening, withdrawal of inadvertently erroneous bids after award, or cancellation and reward of awards or contracts, after award but prior to performance may be permitted in accordance with regulations promulgated by the board. After bid opening no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. Except as otherwise provided by regulation, all decisions to permit the correction or withdrawal of bids, or to cancel awards, or contracts, after award but prior to performance shall be supported by a written determination of appropriateness made by the chief procurement officers or head of a purchasing agency.

**R 19-445.2070: Rejection of Individual Bids.**

**D, 1 (c)**

States a price but qualified such price as being subject to "price in effect at time of delivery" [19-445.2070,

**R 19-445.2085: Correction or Withdrawal of Bids; Cancellation of Awards.**

**B. Correction Creates Low Bid.**

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 in the judgment of the procurement officer is clearly evident from examining the bid document; for example, extension of unit prices or errors in addition.

**For the reasons outlined above, I hereby determine this offer to be non-responsive.**



Randy Barr, Sr.  
Procurement Officer



## 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.

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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**

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\_\_\_\_\_  
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: \_\_\_\_\_

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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.**