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CHAIRMAN, HOUSE WAYS AND MEANS COMMITTEE

GRANT GILLESPIE
EXECUTIVE DIRECTOR

THE DIVISION OF PROCUREMENT SERVICES

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MICHAEL B. SPICER
INFORMATION TECHNOLOGY MANAGEMENT OFFICER
(803) 737-0600
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Protest Decision

Matter of: BMS Direct, Inc.

Case No.: 2019-207

Posting Date: April 4, 2019

Contracting Entity: State Fiscal Accountability Authority

Solicitation No.: 5400013781

Description: Variable Print and Mail Presort Services Non Mandatory Statewide Contract

DIGEST

Protest of improper evaluation is denied. BMS Direct's (BMS) 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

08/24/2018
09/28/2018

Amendment 2 Issued	10/15/2018
Intent to Award Issued	03/06/2019
Initial Protest Received	03/06/2019
First Protest Amendment	03/12/2019
Second Protest Amendment	03/15/2019
Final Protest Amendment	03/15/2019

The State Fiscal Accountability Authority (SFAA) issued this Request for Proposals to obtain Print and Mail Presort Services. Required services include: document design, data processing of variable data, black-and-white printing, processing of first class mail to obtain the lowest possible postage rate, and production of copies of printed materials on electronic media to be utilized by the ordering entity. Offerors will be required to provide high-quality offset or digital printed materials and must be able to meet short turn-around timelines. BMS raises concerns with the evaluators' scoring and comments, and why the State would award to a substantially higher priced offer.

ANALYSIS

BMS' initially protests that it submitted a lower price than the apparent successful bidder:

The grounds for this protest are based on the total potential value of \$10,000,000. BMS submitted pricing for this contract of approx. \$1,300,000 which would have a 5 year value of \$6,500,000.

In a March 12, 2019 follow-up to its initial issue of protest, BMS again raised the issue of its lower price:

1. Based on the Evaluation Score Sheet, our submitted pricing was approx. \$1,100,000 less than the awarded vendor. While it is understood that all quantities are estimates, BMS still remains 50% less than CMS regardless of the actual quantity produced. Given a 5 year contract, that would be a variance of over \$5,000,000. ...

c. Can the State provide justification for spending 50% more for these contracted services while the sole intent of the solicitation is to save money by closing your internal print and mail operation?

In a March 15, 2019 update, BMS emphasized its lower price a third time:

i. As mentioned in my initial email, our submitted pricing was approx. \$1,100,000 less than the awarded vendor. While it is understood that all quantities are estimates, BMS still remains 50% less than CMS regardless of the actual quantity produced. Given a 5 year contract, that would be a variance of \$3,000,000 to \$5,000,000.

This procurement utilized the Request for Proposal source selection process which requires:

Award must be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the State, taking into consideration price and the evaluation factors set forth in the request for proposals, ...

Section 11-35-1530(9).

The evaluation factors were published in the solicitation as follows:

EVALUATION FACTORS -- PROPOSALS (JAN 2006)

Offers will be evaluated using only the factors stated below. Evaluation factors are stated in the relative order of importance, with the first factor being the most important. Once evaluation is complete, all responsive offerors will be ranked from most advantageous to least advantageous.

1. Business Proposal
2. Technical Proposal
3. Qualifications & Experience

[Solicitation, Page 24]

Five proposals were received and evaluated in accordance with Section 11-35-1530(7) which requires:

Proposals must be evaluated using only the criteria stated in the request for proposals and there must be adherence to weightings that have been assigned previously. Once evaluation is complete, all responsive offerors must be ranked from most advantageous to least advantageous to the State, considering only the evaluation factors stated in the request for proposals.

Weights were assigned for each evaluation factor. The business proposal, or price, was assigned 40 points, the technical proposal assigned 35 points,¹ and qualifications assigned 30 points for a total of 105 points.² Five evaluators evaluated each proposal and assigned points for the Offeror's Technical Proposal and the Offeror's Qualifications / Experience. The Procurement Officer assigned points for the Business proposals using a standard formula based on a spreadsheet published as Attachment E to the solicitation and completed by each Offeror.

Instructions for completing Attachment E were published in the solicitation as follows:

PRICE PROPOSAL (JAN 2006)

Notwithstanding any other instructions herein, you shall submit the following price information as a separate document using Attachment E.

Instructions for Completing Attachment E

1. Using the "Contract Pricing" tab, enter prices in all highlighted cells for the following categories:
 - a. Document Preparation, Development, Testing
 - b. Printing
 - c. Handling
 - d. Imaging
 - e. Mailing
 - f. Storage
 - g. Supply Cost
 - h. Surcharge for Rush or Other Than Operating Hours Jobs
2. All pricing entered will be the prices used during the term of the contract.
3. On the "Scenarios" Tab, provide a detailed list of the services used to complete each scenario as well as the pricing for each service. A sample scenario has been completed in the "Scenario Sample" tab as a reference. NOTE: All information in the "Scenario Sample" tab is fictional and has no relationship to any of the actual scenarios used in the solicitation, and is for representational purposes only.

¹ BMS complained in its first supplemental protest email that evaluators had awarded "more than the max points" to some offerors for technical proposals. This was apparently based on its misapprehension that only 30, vice 35, points were allocated to this criterion.

² The Consolidated Procurement Code and Regulations do not require or prescribe a rating scale, leaving it to discretion of the procurement officer to tailor the procedure for ranking proposals to the specific nature of that Request for Proposals. Consequently, not all proposals are ranked on a 100-point scale.

4. The pricing used to complete the three scenarios in the “Scenarios” tab should match the pricing entered in the “Contract Pricing” tab.

All pricing fields must be completed with a price for that service. Offers must include, at a minimum, all of the services provided on the price proposal. If a zero is entered into a price block, the State will assume there is “no charge” for that service.

[Solicitation, Page 43]

Additional information about pricing was published as follows:

DETERMINING THE EVALUATED PRICE

The State has developed pricing scenarios based on the following, common print jobs:

1. Check Printing for the State Treasurer’s Office
2. Form Printing for the Department of Social Services
3. Vehicle Title & Registration Printing for the Department of Motor Vehicles

Offerors shall include the total pricing for each scenario in the Bidding Schedule. The total of the Bidding Schedule (including the pricing for the scenarios) will be used to determine the evaluated price.

[Solicitation, Page 24]

Based on the Attachment E submitted by BMS, it offered the lowest price and received the maximum of 40 points. Other bidders received a percentage of the 40 points based on the relationship of their price to the price proposed by BMS.

The first scenario was published as follows:

Current:

The State Treasurer’s office requires checks to be printed daily. The check is a preprinted, impact-sealed form, with the printing is done in MICR ink. Approximately 23,000 checks are printed weekly. The file to be printed is transmitted electronically at the close of business daily, generally between 5 and 7 PM. The sealed checks resulting from that transmission are delivered to the Treasurer’s office, by 8 AM the next day. The Treasurer’s office is located in the Wade Hampton office building located at 1200 Main Street, Columbia, SC.

Required response:

Describe the process of how will you provide this service. Be as detailed as possible.

What is the earliest time that checks can be delivered to the Treasurer's office?

What is the cost per check, to include all services listed?

Enter the price per check, to include all services listed, on Attachment E. – **DO NOT INCLUDE YOUR PRICE IN THIS ATTACHMENT.**

[Solicitation, Attachment F]

BMS responded:

Once LIVE production data is received and processing completes, BMS will ship the Treasurer's Office checks within 24 – 48 hours of data receipt. If data transfer is delayed past 7:00 PM from the State, BMS will ship on an ASAP basis. Checks will be shipped via Fedex overnight to the Treasurer's Office in Columbia, SC.

Please see form pricing on Attachment E as instructed below.

****All freight costs associated with the shipment of checks isn't included in the Bidding Schedule. Freight charges will be billed on a monthly basis as daily shipments are fulfilled.****

(emphasis in original).

The scenario required delivery by 8 AM the next day and that all costs to be included in the cost per check, including shipping. BMS proposed delivering checks within 24 – 48 hours and did not include the cost of shipping in its cost per check. ³

In the March 15th amendment to its protest, BMS acknowledged the problem with the check delivery:

i. BMS understands that we currently cannot meet the specified SLA turnaround time for the Treasurer checks but proposed a solution for delivery within 24 – 48 hours of data receipt.

³ Neither of these issues—BMS' inability to meet the turnaround requirement nor its failure to include shipping costs in its pricing—were addressed through discussions as allowed under Regulation 19-445.2095(I) and the points allocated for the business proposals were based on BMS' low price that did not include shipping for the first scenario. According to BMS this would amount to approximately \$375,000 over the five-year potential duration of the contract, not an insignificant amount. Since the scenario pricing was part of the cost evaluation, BMS received an unfair advantage by not including the cost of delivery in its price.

In the March 12th amendment to its protest, BMS acknowledged the problem with its pricing:

We understand that for the Scenario #1, BMS would have to ship daily/weekly checks to SC but the annual freight costs for overnight delivery totals approx. \$75,000/yr, a nominal amount vs. the difference in submitted pricing.

In a RFP, award is made to the responsible Offeror whose proposal is determined to be most advantageous to the state, not necessarily the lowest price. BMS received the maximum possible points awarded for its business proposal. When all three evaluation factors were considered, though, BMS was not determined to be the most advantageous.

In the amendments to the initial protest, BMS raises questions about the evaluation of its Technical Proposal and Qualifications. In the March 12th amendment:

After review of the submitted CMS bid response, BMS doesn't see any significant differences in the "Qualifications & Experience" from our response to theirs. In comparison, we cannot identify any significant variance in experience or overall capabilities that would warrant a 26.4 vs. the 15 average that BMS received. Can you provide evidence as to how these were evaluated and scored?

In the March 15th amendment:

Several negative comments against BMS were relating to no specific experience with government entities within the State of SC and are limited to Virginia. In your solicitation, the evaluation criteria for "Qualifications & Experience" reads as follows:

- i. A brief history of your firm and its capabilities, not to exceed 3 pages
- ii. Describe your experience providing services of a similar size and scope for a minimum of 3 customers.
 1. Your solicitation doesn't have specific requirements in the evaluation criteria that specifies the contracted vendor must have experience with SC government entities. BMS has nationwide experience dealing with clients and has responded accordingly. The references we provided were specifically chosen to demonstrate our capabilities for your requirements as outlined in your solicitation.
- b. Other negative comments against BMS were proposed as "lack of experience"
 - i. BMS doesn't believe the information provided in our proposal showed any sign of lack of experience to perform this contract. Our capabilities,

secured infrastructure, and experience are more than adequate to perform the work under this contract.

1. As mentioned above, the references we provided were selected to prove to the State of SC the level of service we offer our clients. All references listed would have given the State adequate feedback.
2. As confirmation of such, were the references BMS provided contacted by the State during this evaluation process?

Evaluators noted BMS' 45 years in business and 350 clients but expressed concern that its experience with state government is limited to the State of Virginia.

In evaluating an Offeror's qualifications, it is reasonable to consider the Offeror's ability to perform the contract. Evaluators noted BMS' inability to meet the check delivery requirements of the first scenario. The evaluators also noted that BMS had only one MICR laser printer for printing checks. While BMS argues that the printer is under 24 x 7 maintenance and fully meets the needs of its existing clients, the evaluators viewed this as a concern.

The South Carolina Procurement Review Panel established the standard for review of RFP evaluations in the *Protest of Transportation Management Services, Inc., Appeal by Transportation Management Services, Inc.*, Panel Case 2000-3:

The determination by the State who is the most advantageous offeror is final and conclusive unless clearly erroneous, arbitrary, capricious, or contrary to law.... The burden of proof is on [the protestant] to demonstrate by a preponderance of the evidence that the determination in this case has such flaws.... The Panel will not substitute its judgment for the judgment of the evaluators, who are often experts in their fields, or disturb their findings so long as the evaluators follow the requirements of the Procurement Code and the RFP, fairly consider all proposals, and are not actually biased.

Each evaluator could assign up to thirty points for an offerors qualifications and experience. BMS received twenty points from two evaluators, fifteen points from one evaluator and ten points from two evaluators. The evaluation of an Offeror's qualifications and experience is subjective based on the interpretation of the evaluators who are often experts in their field. In this case there is no indication that their evaluations were arbitrary, capricious or contrary to law, and the CPO will not substitute his judgment for that of the evaluators.

In its March 12th amendment to its protest, BMS questions the evaluation of its technical proposal by Evaluator 5:

Under the “Technical Proposal” category, BMS received a 5 by Evaluator 5, while the other 4 evaluators averaged an 18.75. BMS doesn’t understand this score as we would consider it borderline unresponsive. We believe the level of detail we provided isn’t representative of this score. Can you provide evidence as to why this score was given?

Evaluator 5, Robert Bradley, awarded five points to BMS’s technical proposal. One other evaluator awarded that proposal 15 points and the three remaining evaluators awarded BMS’ technical proposal 20 points. Mr. Bradley’s lowest score for any of the four remaining technical proposals was 27 points. Mr. Bradley’s only comment about his evaluation of BMS’ technical proposal:

“Technically insufficient regarding equipment”

Other evaluators identified concerns with BMS, including the printing of continuous forms, the one MICR printer discussed above, and the check delivery problem discussed above. Mr. Bradley’s explanation provides little insight into the variance between his score and the scores of the other evaluators. It does, however, suggest that he considered some of the same issues identified by the other evaluators.

The Procurement Review Panel has observed:

As the Panel has previously stated in Case No. 1993-14, In re: Protest of Drew Industrial Division, "the variation of evaluators scores alone, is only proof of the subjective nature of the evaluation aspect of the RFP process." See also, Case No. 1993-16, In re: Protest of NBS Imaging systems. Inc.

Protest of TRAVELSIGNS; Appeal by TRAVELSIGNS, Panel Case 1995-8.

Of the five proposals received, BMS’s proposal received the second lowest accumulative score from the five evaluators despite its unfair advantage in the price evaluation. All five evaluators awarded BMS the lowest or second lowest score for both the technical and qualifications evaluation criteria. Mr. Bradley’s significant deviation from the scores of the other evaluations of

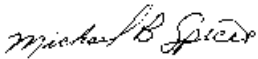
BMS's technical proposal does not, in and of itself, indicate a breach of the evaluator's responsibility to conduct a fair and honest evaluation. Even if Mr. Bradley's scoring is entirely disregarded, CMS remains the highest-ranked offeror based on the scores of the other four evaluators. A better explanation of the scoring might have alleviated BMS' concern without a protest. BMS has failed to demonstrate by a preponderance of the evidence that Mr. Bradley's scoring of its technical proposal was erroneous, arbitrary, capricious, or contrary to law. This issue of protest is denied.

BMS also expressed concern that it was not afforded the opportunity to understand the State's concerns with its proposal and offer fixes or alternatives for consideration. Unfortunately, the Procurement Code only allows negotiation with the highest ranked offeror. BMS failed to meet that threshold and the State was prohibited from negotiating with BMS.

DECISION

For the reasons stated above, the Protest of BMS Direct, Inc. is denied.

For the Information Technology Management Office



Michael B. Spicer
Chief Procurement Officer

Attachment 1

From: [Leif Aagaard III](#)
To: [itmo_protest](#)
Cc: [Vernon Berry](#)
Subject: Solicitation 5400013781 - Print Mail
Date: Wednesday, March 06, 2019 10:49:54 AM
Importance: High

Good morning! I'm reaching out today to protest the intent of award for Solicitation 5400013781 – Variable Print and Mail Presort Services. The grounds for this protest are based on the total potential value of \$10,000,000. BMS submitted pricing for this contract of approx. \$1,300,000 which would have a 5 year value of \$6,500,000.

Could you provide the evaluation documentation for all submitted bids that justifies a variance of over \$3,000,000? As I understand, the award criteria states the *"award will be made to the highest ranked, responsive, and responsible vendor whose offer is determined to be the most advantageous to the State."*

If you have any questions, please do not hesitate to reach out.

Best Regards,

Leif Aagaard, III

Account Executive

BMS Direct, Inc.

Direct: (434) 455-7757

Mobile: (434) 238-6234



From: [Leif Aagaard III](#)
To: [Speakmon, Michael](#); [itmo_protest](#)
Cc: [Alston, Vivian](#)
Subject: SC Bid Protest
Date: Tuesday, March 12, 2019 12:32:06 PM
Importance: High

Michael,

Good morning! I'm following up on my submitted protest for Solicitation #5400013781, Variable Print and Mail Presort Services. We have reviewed the documentation you sent for evaluating the award and have composed follow questions/concerns regarding the intent to award. If you could provide response, that would be much appreciated.

1. Based on the Evaluation Score Sheet, our submitted pricing was approx. \$1,100,000 less than the awarded vendor. While it is understood that all quantities are estimates, BMS still remains 50% less than CMS regardless of the actual quantity produced. Given a 5 year contract, that would be a variance of over \$5,000,000.
 - a. We understand that for the Scenario #1, BMS would have to ship daily/weekly checks to SC but the annual freight costs for overnight delivery totals approx. \$75,000/yr, a nominal amount vs. the difference in submitted pricing.
 - b. In addition, it appears that CMS would offer the State comingling services for all first class mail. BMS is also a presort mailer and all mail would be comingled for additional postal savings. While CMS may offer a slightly better postage rate, it would still be considered insignificant compared to the overall contracted price.
 - c. Can the State provide justification for spending 50% more for these contracted services while the sole intent of the solicitation is to save money by closing your internal print and mail operation?
2. After review of the submitted CMS bid response, BMS doesn't see any significant differences in the "Qualifications & Experience" from our response to theirs. In comparison, we cannot identify any significant variance in experience or overall capabilities that would warrant a 26.4 vs. the 15 average that BMS received. Can you provide evidence as to how these were evaluated and scored?
3. Under the "Technical Proposal" category, BMS received a 5 by Evaluator 5, while the other 4 evaluators averaged an 18.75. BMS doesn't understand this score as we would consider it borderline unresponsive. We believe the level of detail we provided isn't representative of this score. Can you provide evidence as to why this score was given?
4. After review of the Evaluation Score Sheet, we do not understand how other vendors were awarded more than the max points from various evaluators. For instance, Evaluator 4 gave 3 difference vendors more than 30 points (32, 34, 33) in the "Technical Proposal" category. Can you provide further information as to how a vendor can be awarded above a perfect score?

Best Regards,

Leif Aagaard, III
Account Executive
BMS Direct, Inc.
Direct: (434) 455-7757
Mobile: (434) 238-6234



From: [Leif Aagaard III](#)
To: [Speakmon, Michael](#); [itmo_protest](#)
Cc: [Alston, Vivian](#)
Subject: RE: SC Bid Protest
Date: Friday, March 15, 2019 8:54:33 AM
Importance: High

Michael,

After review of all evaluation documentation, BMS would like to submit the following concerns regarding your published intent for award:

1. Grading Scale
 - a. The scores that were given to BMS by each evaluator are widely inconsistent. For instance in the "Technical Proposal", BMS received a 5 by Evaluator 5, while the other 4 evaluators averaged an 18.75. BMS sees no evidence why a score of 5 was given, considering a score of 5 is borderline unresponsive.
 - b. Throughout the composite score sheet, evaluators gave other vendors scores that exceeded the maximum number of points. In 4 instances, evaluators provided scores of 32, 32, 34, and 33 in categories with a maximum of 30 for each category. BMS doesn't believe that this evaluation was conducted accurately by awarding vendors above perfect scores.
2. Evaluation Comments
 - a. Several negative comments against BMS were relating to no specific experience with government entities within the State of SC and are limited to Virginia. In your solicitation, the evaluation criteria for "Qualifications & Experience" reads as follows:
 - i. A brief history of your firm and its capabilities, not to exceed 3 pages
 - ii. Describe your experience providing services of a similar size and scope for a minimum of 3 customers.
 1. Your solicitation doesn't have specific requirements in the evaluation criteria that specifies the contracted vendor must have experience with SC government entities. BMS has nationwide experience dealing with clients and has responded accordingly. The references we provided were specifically chosen to demonstrate our capabilities for your requirements as outlined in your solicitation.
 - b. Other negative comments against BMS were proposed as "lack of experience"
 - i. BMS doesn't believe the information provided in our proposal showed any sign of lack of experience to perform this contract. Our capabilities, secured infrastructure, and experience are more than adequate to perform the work under this contract.
 1. As mentioned above, the references we provided were selected to prove to the State of SC the level of service we offer our clients. All references listed would have given the State adequate feedback.
 2. As confirmation of such, were the references BMS provided contacted by the State during this evaluation process?
 - c. Equipment
 - i. Under the evaluator comments, it was mentioned that BMS only has 1

MICR printer to fulfill the check printing for the Treasurer's office. The current MICR printer we utilize fully meets the needs of our existing clients and is under 24 x 7 maintenance in the event of equipment malfunction.

- ii. BMS would not hesitate to add additional MICR printing equipment if this bid were awarded to BMS.
- iii. BMS was offered no opportunity to discuss this possibility in the evaluation period.

d. Check Printing

- i. BMS understands that we currently cannot meet the specified SLA turnaround time for the Treasurer checks but proposed a solution for delivery within 24 – 48 hours of data receipt.
- ii. Like the MICR printing capabilities, this could have been discussed in the evaluation period. BMS would have been willing to look into alternative solutions to better meet the needs of the State for this particular project.

e. Pricing

- i. As mentioned in my initial email, our submitted pricing was approx. \$1,100,000 less than the awarded vendor. While it is understood that all quantities are estimates, BMS still remains 50% less than CMS regardless of the actual quantity produced. Given a 5 year contract, that would be a variance of \$3,000,000 to \$5,000,000.
- ii. BMS is adamant that the responses we provided in our proposal were more than adequate for the State to strongly consider a company that could provide cost savings of this magnitude.
- iii. While it is apparent that BMS doesn't meet the check printing SLA, we are perplexed that BMS received no chance to further discuss our proposal with the State given the amount of savings we could offer.

After review of all evaluation scores and comments, BMS sees no legitimate justification why the State of South Carolina or its taxpayers should spend approx. 50% more for the services outlined herein. Due to the poor evaluation process, suspiciously inconsistent comments made, and opportunity for significant cost savings, BMS Direct formally requests that the State of South Carolina rebid this solicitation and conduct interviews with each responsive vendor to allow for complete explanation of qualifications, experience, and level of service.

Best Regards,

Leif Aagaard, III

Account Executive

BMS Direct, Inc.

Direct: (434) 455-7757

Mobile: (434) 238-6234



From: Speakmon, Michael [mailto:mspeakmon@mmo.sc.gov]
Sent: Wednesday, March 13, 2019 10:44 AM
To: Leif Aagaard III; itmo, protest
Cc: Alston, Vivian; Speakmon, Michael
Subject: RE: SC Bid Protest
Importance: High

Mr. Aagaard,

Attached are the comment sheets BMS requested.

Please be advised that I will be out of the office all week next week on business (March 18-March 21), and the contract is scheduled to become effective during that time. If BMS intends to continue with their protest, there are certain actions that must occur while I am out of the office that another procurement officer will have to perform. We would appreciate BMS notifying us no later than noon on Friday, March 15, 2019, if possible, as to their intentions with regard to withdrawing the protest. That will give us time to properly brief someone on the situation so the proper actions may be taken if necessary.

The requested notification is NOT a requirement, or a restriction of BMS' rights as prescribed by the procurement code, it is merely a matter of convenience to help solidify the required administrative actions for this office, given the specific circumstances in which we find ourselves. Failure of BMS to notify the State of their intentions by the date and time above does not affect their rights in any way to continue with the protest.

Thanks
Michael



Michael Speakmon | Procurement Manager – Team Lead | Goods & Services Contracting Team | Office of State Procurement | Division of Procurement Services | SC State Fiscal Accountability Authority
1201 Main Street, Suite 600 | Columbia, SC 29201 | Phone: (803) 737-9816 | mspeakmon@mmo.sc.gov

From: Leif Aagaard III <leif.aagaard3@bmsdirectinc.com>
Sent: Tuesday, March 12, 2019 5:01 PM
To: Speakmon, Michael <mspeakmon@mmo.sc.gov>; itmo, protest <protest-itmo@mmo.sc.gov>
Cc: Alston, Vivian <viviana@mmo.sc.gov>

Subject: RE: SC Bid Protest

Importance: High

Michael,

Thanks for the email and thorough explanation. I certainly understand your position in this solicitation as well as in reference to the questions I proposed.

With the large discrepancy in pricing, BMS formally requests under FOIA of all comments provided for all 5 evaluators that were provided throughout the evaluation process. After review, we will let you know if there are further questions/concerns in addition to the questions we provided this morning.

If you could provide that information, that would be great.

Best Regards,

Leif Aagaard, III

Account Executive

BMS Direct, Inc.

Direct: (434) 455-7757

Mobile: (434) 238-6234



From: Speakmon, Michael [<mailto:mspeakmon@mmo.sc.gov>]

Sent: Tuesday, March 12, 2019 1:30 PM

To: Leif Aagaard III; itmo, protest

Cc: Alston, Vivian; Speakmon, Michael

Subject: RE: SC Bid Protest

Mr. Aagaard,

As the procurement officer of a solicitation, I will never try to attempt to justify or offer insight into the individual evaluation panel members scores or comments. My expertise is in the procurement process, and my role is to ensure that the solicitation is conducted in accordance with the laws of South Carolina and the requirements set forth in the solicitation. All offers were evaluated against the requirements of the solicitation, and the scores related to those offers have been provided as they were recorded. We did not evaluate these offers on a consensus basis, so each panel member is solely responsible for their scores and comments, which they reached individually.

I am not able to, nor would I ever attempt to, offer any insight into how the evaluation panel reached their individual scores, above the recorded comments that they made at the time they submitted their scoresheets. If you wish to see any or all of those comments you are welcome to request them under FOIA and they will be provided to you. They may be able to provide you further insight into the panel members individual thoughts.

Other than providing additional documentation, I'm afraid I am not able to provide any further insight into how each panel member came to their individual conclusions.

I hope this is helpful.

Michael



Michael Speakmon | Procurement Manager – Team Lead | Goods & Services Contracting Team | Office of State Procurement | Division of Procurement Services | SC State Fiscal Accountability Authority
1201 Main Street, Suite 600 | Columbia, SC 29201 | Phone: (803) 737-9816 | mspeakmon@mmo.sc.gov

From: Leif Aagaard III <leif.aagaard3@bmsdirectinc.com>

Sent: Tuesday, March 12, 2019 12:32 PM

To: Speakmon, Michael <mspeakmon@mmo.sc.gov>; itmo, protest <protest-itmo@mmo.sc.gov>

Cc: Alston, Vivian <viviana@mmo.sc.gov>

Subject: SC Bid Protest

Importance: High

Michael,

Good morning! I'm following up on my submitted protest for Solicitation #5400013781, Variable Print and Mail Presort Services. We have reviewed the documentation you sent for evaluating the award and have composed follow questions/concerns regarding the intent to award. If you could provide response, that would be much appreciated.

1. Based on the Evaluation Score Sheet, our submitted pricing was approx. \$1,100,000 less than the awarded vendor. While it is understood that all quantities are estimates, BMS still remains 50% less than CMS regardless of the actual quantity produced. Given a 5 year contract, that would be a variance of over \$5,000,000.
 - a. We understand that for the Scenario #1, BMS would have to ship daily/weekly checks to SC but the annual freight costs for overnight delivery totals approx. \$75,000/yr, a nominal amount vs. the difference in submitted pricing.
 - b. In addition, it appears that CMS would offer the State comingling services for all first class mail. BMS is also a presort mailer and all mail would be comingled for additional postal savings. While CMS may offer a slightly better postage rate, it would still be considered insignificant compared to the overall contracted price.
 - c. Can the State provide justification for spending 50% more for these contracted services while the sole intent of the solicitation is to save money by closing your

internal print and mail operation?

2. After review of the submitted CMS bid response, BMS doesn't see any significant differences in the "Qualifications & Experience" from our response to theirs. In comparison, we cannot identify any significant variance in experience or overall capabilities that would warrant a 26.4 vs. the 15 average that BMS received. Can you provide evidence as to how these were evaluated and scored?
3. Under the "Technical Proposal" category, BMS received a 5 by Evaluator 5, while the other 4 evaluators averaged an 18.75. BMS doesn't understand this score as we would consider it borderline unresponsive. We believe the level of detail we provided isn't representative of this score. Can you provide evidence as to why this score was given?
4. After review of the Evaluation Score Sheet, we do not understand how other vendors were awarded more than the max points from various evaluators. For instance, Evaluator 4 gave 3 difference vendors more than 30 points (32, 34, 33) in the "Technical Proposal" category. Can you provide further information as to how a vendor can be awarded above a perfect score?

Best Regards,

Leif Aagaard, III

Account Executive

BMS Direct, Inc.

Direct: (434) 455-7757

Mobile: (434) 238-6234



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.