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(803) 737-0600  
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## Protest Decision

**Matter of:** Doron Precision Systems, Inc.

**File No.:** 2023-127

**Posting Date:** April 24, 2023

**Contracting Entity:** South Carolina Department of Corrections

**Solicitation No.:** 5400024771

**Description:** CDL Truck Simulator

### DIGEST

Protest that the apparent successful bidder is not a responsive bidder is granted. The protest by Doron Precision Systems, Inc. (DPS) is attached and included by reference.  
(Attachment 1)

### AUTHORITY

The Chief Procurement Officer<sup>1</sup> (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	02/21/2023
Statement of Award Posted	04/06/2023
Protest Received	04/12/2023

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<sup>1</sup> The Materials Management Officer delegated the administrative review of this protest to the Chief Procurement Officer for Information Technology.

The South Carolina Department of Corrections (DOC) issued this Invitation for Bids (IFB) to acquire a CDL truck simulator on February 21, 2023. A Statement of Award was posted to Virage Simulation, Inc. (VS) on April 6, 2023. DPS filed its protest alleging that the apparent successful bidder is not responsive on April 12, 2023.

## DISCUSSION

DPS protests:

The manufacturer and product that was awarded this solicitation simply cannot meet the Scope of Work/Specifications listed in Section III. Page 11. The VS600 Truck Driving Simulator listed as the awarded product is not the 550TruckplusIX and cannot be compliant nor and equal product. Doron's 550TruckplusIX specifications that were included in our original solicitation response are 100% compliant and meet all the requirements of the State of South Carolina – SC Department of Corrections technical specifications as stated in your solicitation.

The solicitation included the following specification:

Line 1. **550 TruckplusIX - 550 Truck Plus CDL Simulator** including the following:

- One (1) 550Truckplus™ driving simulator cab
- TrueSteer™ digital servo steering system
- Three (3) 55" LED flat screen displays (220° field-of-view)
- Remote Controlled side-view mirror adjustment
- Pre-recorded Audio Scenario Description Feature
- Truck Scenario Package
- Self-contained - Air Ride adjustable seat
- Multiple Manual Transmission Configurations
- 5 Speed Automatic Transmission
- Surround Sound Dolby Stereo System
- Comprehensive user guide
- Two days of on-site Instructor training
- Shipping and Packing included to South Carolina
- On-site installation
- One (1) year warranty – includes parts and on-site service
- First year on-site preventative maintenance service support

The following software options and vehicles are included at no additional charge:...

[Solicitation, Page 11] (emphasis in original)

The purpose of a specification is set out in Regulation 19-445.2140(B) as:

Issuance of Specifications.

The purpose of a specification is to serve as a basis for obtaining a supply, service, information technology, or construction item adequate and suitable for the State's needs in a cost effective manner, taking into account, to the extent practicable, the cost of ownership and operation as well as initial acquisition costs. It is the policy of the State that specifications permit maximum practicable competition consistent with this purpose. Specification shall be drafted with the objective of clearly describing the State's requirements. All specifications shall be written in a non restrictive manner as to describe the requirements to be met.

Despite the fact that the manufacturer of the 550Truckplus is not identified and the solicitation did not alert bidders that no other manufacturer's equipment would be accepted, this is a brand name specification as defined in Regulation 19-445.2140(1)<sup>2</sup>:

“Brand Name Specification” means a specification limited to one or more items by manufacturers' names or catalogue number.

Even though it appears that DPS is the only source for this specific product, there was no protest that this specification was unduly restrictive.

The award was made to VS for a VS600 CDL Truck Driving Simulator. However, the VS600 CDL Truck Driving Simulator is not the 550 TruckplusIX - 550 Truck Plus CDL Simulator specified in the solicitation. A responsive bidder is defined in Section 11-35-1410(9) as:

"Responsive bidder or offeror" means a person who has submitted a bid or proposal which conforms in all material aspects to the invitation for bids or request for proposals.

The bid by VS is not responsive to the published specification and is not eligible for award.

The fact that the award was posted to VS indicates that the procurement officer intended this to be a brand name or equal specification as defined in Regulation 19-445.2140(2):

“Brand Name or Equal Specification” means a specification which uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet state requirements, and which provides for the submission of equivalent products.

(emphasis added)

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<sup>2</sup> The solicitation listed the model number but not the brand name. The solicitation also listed certain specifications making the solicitation arguably ambiguous as to whether the specifications were intended to be brand-name or brand-name-or-equal.

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April 24, 2023

However, the solicitation did not provide notice that equivalent products would be acceptable or identify the salient features that an equivalent product must provide.

This solicitation is ambiguous, unduly restrictive, and inconsistent with the Regulations.

## **DECISION**

For the reasons stated above, the protest of Doron Precision Systems, Inc. is granted. The award to Virage Simulation, Inc. is cancelled. The solicitation is cancelled, and the procurement is remanded to the Department of Corrections processing in accordance with the Code.



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Michael B. Spicer  
Chief Procurement Officer

Columbia, South Carolina

Attachment 1



April 12, 2023

State of South Carolina – SC Department of Corrections  
1202 Main Street, Suite 600  
Columbia, SC 29201  
Chief Procurement Officer and Materials Management Office  
[protest-mmo@mmo.state.sc.us](mailto:protest-mmo@mmo.state.sc.us)

Re: Solicitation # - 5400024771 – CDL Truck Simulator

Dear Chief Procurement Officer and Material Management Office:

I am in receipt of your award letter dated April 6, 2023 notifying Doron that our proposal has been rejected. This letter serves as Doron's official protest to Solicitation # 5400024771 – CDL Truck Simulator.


Doron's 550TruckplusIX™ is fully compliant with the technical requirements of your solicitation and Doron strongly disagrees with the State of South Carolina - SC Department of Corrections decision to award to another manufacturer that clearly cannot meet the Scope of Work/Specifications" that the State of South Carolina – SC Department of Corrections provided in your solicitation. I am providing the following detailed explanation and clarification of Doron's proposal for your consideration.

Doron's 550TruckplusIX™ proposal meets the State of South Carolina – SC Department of Corrections Scope of Work/Specifications in section III. Page 11 and is fully compliant with the technical specifications. The manufacturer and product that was awarded this solicitation simply cannot meet the Scope of Work/Specifications listed in Section III. Page 11. The VS600 Truck Driving Simulator listed as the awarded product is not the 550TruckplusIX and cannot be compliant nor and equal product. Doron's 550TruckplusIX specifications that were included in our original solicitation response are 100% compliant and meet all the requirements of the State of South Carolina – SC Department of Corrections technical specifications as stated in your solicitation.

As you can see from the above detailed explanation and clarification of Doron's response, Doron is fully compliant with the technical specifications for the CDL truck simulators. The awarded vendor and product does not meet the scope of work/specifications that the State of Carolina – SC Department of Corrections provided in this solicitation.

Because Doron is fully compliant with the technical requirements for the truck simulators, we are requesting that you reconsider your intent to award to Virage Simulation and award to Doron Precision Systems, Inc. Please feel free to contact me if you have any questions.

Sincerely,

  
Michael P. Stricek  
Senior Vice President

## STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

*Protest Appeal Notice (Revised July 2022)*

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>

FILING FEE: Pursuant to Proviso 111.1 of the 2022 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  
1105 Pendleton Street, Suite 209, 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.**