

<b>STATE OF SOUTH CAROLINA</b>	)	<b>BEFORE THE CHIEF PROCUREMENT OFFICER</b>
<b>COUNTY OF RICHLAND</b>	)	
	)	
In the Matter of Protest of:	)	DECISION
	)	CASE No. 2011 - 120
Seven One Seven Parking Services of	)	
South Carolina, Inc. DBA	)	
Hospital Parking Management	)	
	)	
RFP #4806-3/15/11-9437-Z	)	POSTING DATE: July 8, 2011
<u>MUSC Valet Parking Services</u>	)	MAILING DATE: July 8, 2011

This matter is before the Chief Procurement Officer (“CPO”) pursuant to a letter of protest from Seven One Seven Parking Services of South Carolina, Inc., DBA Hospital Parking Management (“HPM”) filed May 27, 2011 under the provision of Section 11-35-4210(1)(b) of the South Carolina Consolidated Procurement Code (“Code”). With this request for proposals (“RFP”), the Medical University of South Carolina (“MUSC”) attempts to procure a vendor to provide a valet parking service. MUSC posted an intent to award to Valet Solutions, Inc., DBA Ambassadors Plus (“Valet Solutions”) on May 13, 2011. [Exhibit 1, Intent to Award] On May 16, 2011, MUSC posted a modified intent to award to correct a typographical error in the effective date. [Exhibit 2, Modified Intent to Award] HPM challenges that decision.

The CPO has conducted an administrative review without a hearing. This Decision is based on the procurement documents and the applicable law.

**NATURE OF PROTEST**

HPM’s letter of protest is attached and incorporated herein by reference.

**DISCUSSION**

Section 11-35-4210(1)(b) of the Code provides in relevant part:

Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest to the appropriate chief procurement officer...within ten days of the date award or notification of intent to award, whichever is earlier, is posted in accordance with this code...(Emphasis added)

In order to be timely, the protest must be in writing and received by the CPO within the above timeframe. Section 11-35-4210(2)(b). The Code defines “days” to mean calendar days and specifies how a period of time prescribed by the Code is to be calculated. Section 11-35-310(13).

In this case, the modified intent to award to Valet Solutions was posted on May 16, 2011. Therefore, any protest was due to the CPO by at least 5:00 PM on May 26, 2011. However, HPM did not file its protest of this intent to award with the CPO until May 27, 2011.

The South Carolina Procurement Review Panel (“Panel”) has repeatedly held that the time for filing cannot be waived. See In Re: Protest of Jones Engineering Sales, Inc., Panel Case No. 2001-8 (finding that the CPO did not have jurisdiction to rule on the protest issue because the time for filing protests of the solicitation is jurisdictional and may not be waived); In Re: Protest of National Cosmetology Ass’n, Panel Case No. 1996-17 (finding that “where the appeal is not taken within the time provided, jurisdiction cannot be conferred by consent or by waiver”); In Re: Protest of Vorec Corporation, Panel Case No. 1994-9 (finding that a protest of award was untimely when it was filed one day after the deadline established by the Code prior to its amendment). The Panel has explained its rationale for why this time limit is jurisdictional and cannot be waived as follows:

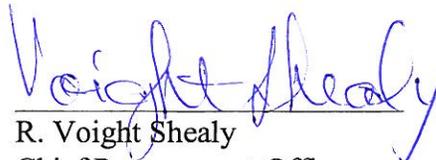
[I]t is essential to the operation of government that challenges its purchasing decisions be limited. If the time for filing protests can be waived, the state will be unable to determine with certainty when it can enter into a contract with one vendor for vital goods and services without the danger of being liable to another vendor.

In Re: Protest of Oakland Janitorial Services, Inc., Panel Case No. 1988-13.

Here HPM filed its protest beyond the time allowed under the Code. Accordingly, the CPO does not have the authority to hear this protest, and this protest must be dismissed as untimely filed.

**DETERMINATION**

For the aforementioned reason, the protest is dismissed.

  
R. Voight Shealy  
Chief Procurement Officer  
for Supplies and Services

July 8, 2011  
Columbia, SC.

## STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

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: [www.procurementlaw.sc.gov](http://www.procurementlaw.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 83.1 of the General Appropriations Act for Fiscal Year 2010-2011, "[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 hardship, the party shall submit a notarized affidavit to such effect. If after reviewing the affidavit the panel determines that such hardship exists, the filing fee shall be waived." PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, a business must retain 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).

**MEDICAL UNIVERSITY OF SOUTH CAROLINA  
UNIVERSITY PURCHASING DEPARTMENT  
19 HAGOOD AVENUE, HARBORVIEW TOWER  
SUITE 408  
CHARLESTON, SC 29425**

**INTENT TO AWARD**

Date: May 13, 2011

This is a statement of intent to award a contract and becomes the official statement of award effective 8:00 AM, August 18, 2008, unless otherwise suspended or canceled. Vendors are cautioned not to begin work on the contract or incur any costs associated with the contract prior to the effective date of the contract. The State assumes no liability for the expenses incurred by vendors prior to the effective date of the contract.

Bidder's right to protest as listed in section 11-35-4210 in the South Carolina Consolidated Procurement Code applies to this intent to award. Protest to be filed with:

Chief Procurement Officer  
Materials Management Office  
1201 Main Street, Suite 600  
Columbia, SC 29201  
Facsimile: 803-737-0639  
E-mail: [protest-mmo@mmo.state.sc.us](mailto:protest-mmo@mmo.state.sc.us)

Solicitation: **RFP #4806-3/15/11-9437-Z**  
Issue Date: **February 10, 2011**  
Opening Date: **March 29, 2011**  
Description: **MUSC Valet Parking Service**

Contract Number: PO654280

Initial Period of Performance: 1 July 2011 – 30 June 2012  
Estimated Potential Value of Initial 1-Year Period of Performance: \$415,064.04  
Total Potential Period of Performance (5 years): 1 July 2011 – 30 June 2016  
Total Estimated Potential Value (5 years): \$2,075,320.20

Awarded to: Valet Solutions, Inc., DBA Ambassadors Plus  
1818 North Taylor Street, #118  
Little Rock, Arkansas 72207

**MUSC Procurement Office**

**Buyer:** Rosalind Giddens, CPPB

**MEDICAL UNIVERSITY OF SOUTH CAROLINA  
UNIVERSITY PURCHASING DEPARTMENT  
19 HAGOOD AVENUE, HARBORVIEW TOWER  
SUITE 408  
CHARLESTON, SC 29425**

**INTENT TO AWARD**

Date: May 16, 2011

**MODIFIED INTENT TO AWARD LETTER – ISSUED TO CORRECT THE  
MAY 13, 2011 STATEMENT OF AWARD EFFECTIVE DATE TO READ  
8:00 AM, MAY 27, 2011. ALL OTHER TERMS AND CONDITIONS REMAIN  
UNCHANGED**

This is a statement of intent to award a contract and becomes the official statement of award effective 8:00 AM, May 27, 2011, unless otherwise suspended or canceled. Vendors are cautioned not to begin work on the contract or incur any costs associated with the contract prior to the effective date of the contract. The State assumes no liability for the expenses incurred by vendors prior to the effective date of the contract.

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VIA EMAIL AND US MAIL

May 27, 2011

Chief Procurement Officer  
Materials Management Office  
1201 Main Street, Suite 600  
Columbia, SC 29201

**RE: Protest RFP #4806-3/15/11-9437-Z  
MUSC Valet Parking Service  
March 29, 2011**

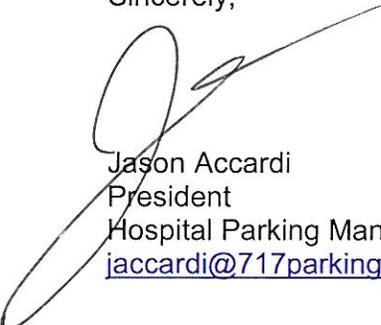
Dear Sir or Madam,

Hospital Parking Management, in accordance with Section **11-35-4210** hereby submits our protest in relationship to the above referenced RFP.

Also, we hereby formally do a FOIA request for all proposals and any and all notes prepared by the evaluating committee relating to all companies that submitted proposals in reference to the above stated Request for Proposal: RFP #4806-3/15/11-9437-Z

Please contact us at your earliest convenience to arrange a time where we can present our findings in relationship to the referenced RFP.

Sincerely,



Jason Accardi  
President  
Hospital Parking Management  
[jaccardi@717parking.com](mailto:jaccardi@717parking.com)