

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

BEFORE THE CHIEF PROCUREMENT OFFICER

WRITTEN DETERMINATION

In Re: Cancellation of Award to
VA Supply, LLC

CASE NO.: 2015-204

**Cancellation of Award Prior to
Performance**
Solicitation No. 540008014
Laundry Net Bags

POSTING DATE: August 12, 2014

MAILING DATE: August 12, 2014

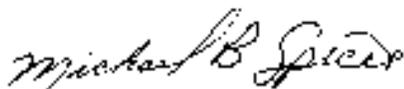
This matter is before the Chief Procurement Officer for Information Technology (CPO) pursuant to a request from the South Carolina Department of Corrections (DoC) [Ex. 1] under the provisions of §11-35-1520(7) of the South Carolina Consolidated Procurement Code (Code), for a determination of appropriateness regarding the State's intention to cancel, prior to performance, the award to VA Supply, LLC for Laundry Net Bags under solicitation 540008014.

Basis for the Request

The Department of Corrections issued the specifications for Reverse Auction 540008014 for Laundry Net Bags on June 27, 2014. The auction was conducted on July 30, 2014. An Intent to Award a contract to VA Supply, LLC was posted on August 5, 2014 [Ex. 2]. After the Intent to Award was posted, the DoC determined that none of the products bid meet the requirements of the solicitation. The solicitation required a hem top with draw string and ID tag. None of the samples submitted by vendors had the required ID tags at the top on the draw string. The solicitation also required that the bags measure 18" x 30". None of the samples submitted by vendors met the required measurements stated in the specifications. On August 8, 2014, Ruthie H. Bishop, Director of Procurement for the DoC, requested cancellation after award but prior to performance under Regulation 19-445.2085(C)(7), citing an administrative error in determining the lowest responsive and responsible bidder.

Determination

The lowest priced bidder did not meet the material and essential requirements of the solicitation. No other bidder met the material and essential requirements of the solicitation. The award to VA Supply, LLC is cancelled under Regulation 19-445.2085(C).



Michael B. Spicer
Chief Procurement Officer for Information Technology

STATEMENT OF RIGHT TO ADMINISTRATIVE REVIEW

Written Determination Appeal Notice (Revised June 2013)

The South Carolina Procurement Code, in Section 11-35-4410, subsection (1)(b) states:

(1) Creation. There is hereby created the South Carolina Procurement Review Panel which shall be charged with the responsibility to review and determine de novo:

(b) requests for review of other written determinations, decisions, policies, and procedures arising from or concerning the procurement of supplies, services, information technology, or construction procured in accordance with the provisions of this code and the ensuing regulations; except that a matter which could have been brought before the chief procurement officers in a timely and appropriate manner pursuant to Sections 11-35-4210, 11-35-4220, or 11-35-4230, but was not, must not be the subject of review under this paragraph. Requests for review pursuant to this paragraph must be submitted to the Procurement Review Panel in writing, setting forth the grounds, within fifteen days of the date of the written determinations, decisions, policies, and procedures.

Copies of the Panel's decisions and additional information regarding the protest process is available on the internet at the following web site: www.procurementlaw.sc.gov

FILE BY CLOSE OF BUSINESS: Requests 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 108.1 of the 2013 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 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, 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 202, 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.

Exhibit 1



NIKKI R. HALEY, Governor
BRYAN P. STIRLING, Director

August 8, 2014

John White
Materials Management Office
SC Budget and Control Board
1200 Senate Street
Columbia, SC 29201

Re: Solicitation 5400008014 Laundry Net Bags

Dear Mr. White,

Please grant SCDC the authority to cancel Solicitation 5400008014 per SC Procurement Code Regulation 19-445.2085 subsection (7) Administrative error of the purchasing agency discovered prior to performance.

The specifications states hem top with draw string and ID tag. All samples submitted by vendors did not have the required ID tags at the top on the draw string.

The specifications stated size 18" x 30." All samples submitted by vendors did not meet the required measurements stated in the specifications.

SCDC has suspended the Intent to Award pending your review of this cancellation request.

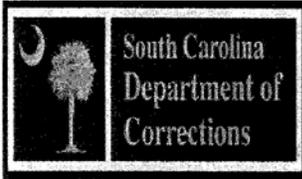
Your help with this matter will be greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Ruthie H. Bishop".

Ruthie H. Bishop, CPPB
Procurement Director
South Carolina Department of Corrections

Exhibit 2



South Carolina Department of Corrections
4420 Broad River Rd
Columbia, SC 29210

Bidder's right to protest as listed in section 11-35-4210 in the South Carolina Consolidated Procurement Code applies to this award. THIS IS A STATEMENT OF INTENT TO AWARD A CONTRACT AND BECOMES THE OFFICIAL STATEMENT OF AWARD EFFECTIVE 4:00 PM, LOCAL TIME, AUGUST 15, 2014. 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

INTENT OF AWARD

Posting Date: AUGUST 5, 2014

Solicitation : 5400008014
Issue Date : 06/27/14
Opening Date : 07/23/14 @ 10 AM
Description : LAUNDRY NET BAGS

INITIAL CONTRACT PERIOD: AUGUST 18, 2014 - AUGUST 17, 2015
POTENTIAL CONTRACT PERIOD: AUGUST 18, 2014 – AUGUST 17, 2019
POTENTIAL CONTRACT AMOUNT: \$ 183,700.00

Awarded To: VA SUPPLY LLC
10608 TWO NOTCH ROAD
ELGIN, SC 29045
803-243-3393
vasupplyllc@gmail.com
Vendor: 7000180460

Evaluated Amount: \$36,740.00

| Item | Quantity | Unit of Measure | Unit Price | Extended Price |
|---|----------|-----------------|------------|----------------|
| 1 | 22,000 | each | 1.67 | 36,740.00 |
| Product Catg.: 51080 - Nets Laundry | | | | |
| Item Description: Net, Laundry | | | | |
| Tendering Text: Laundry nets with drawstring closure and catch. BRAND: ROSS W18301 | | | | |

Buyer: Myrtle DeWerd
Director of Procurement: Ruthie H. Bishop, CPPB