

STATE OF SOUTH CAROLINA	)	BEFORE THE SOUTH CAROLINA
	)	PROCUREMENT REVIEW PANEL
COUNTY OF RICHLAND	)	
	)	
IN RE:	)	CONFERENCE AND SCHEDULING
	)	ORDER
Appeal by New Venue Technologies, Inc.,	)	
	)	
(New Venue Technologies, Inc., Appellant,	)	
vs. South Carolina Budget and Control	)	Case No. 2014-7
Board, Respondent – Contract Controversy)	)	
	)	
	)	
Solicitation No. 5400001873 – Software	)	
Acquisition Manager	)	
	)	

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This matter is before the South Carolina Procurement Review Panel (the Panel) on a request for further administrative review by New Venue Technologies, Inc. (New Venue) from the July 18, 2014, order of the Chief Procurement Officer (the CPO). This case involves a contract dispute between New Venue and the South Carolina Budget and Control Board (the Board). The CPO’s order is thirty-one pages in length. New Venue has filed detailed exceptions to his findings of fact and conclusions of law, and it is expected that the Board will assert affirmative defenses. Seeking to ensure fairness and due process while also serving judicial economies and efficiencies, the Panel has asked the parties to confer and agree on certain scheduling and case management matters in an effort to focus the issues on appeal and to shorten the time needed for a hearing. Therefore, with the consent of the parties, including the CPO, and pursuant to its authority under S.C. Code Ann. § 11-35-4410 (4)(a)(i) and other authority and precedent,<sup>1</sup> the Panel, by its Chairman, hereby sets forth the following Conference and Scheduling Order for this hearing:

1. On or before **November 12, 2014**, New Venue shall inform the other parties in writing which of the issues contained in its July 28, 2014, request for review letter, if any, it wants to abandon or modify. This communication shall be served on opposing counsel, including counsel for the CPO, and filed with the Panel.
2. On or before **November 25, 2014**, the Board shall inform the other parties in writing which affirmative defenses it will assert in response to New Venue’s request for review.

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<sup>1</sup> The Panel craves reference to *In re: Contract Controversy – Agricultural Biotechnology/Molecular Biology Complex (Ellis Don Construction, Inc., v. Clemson University)*, Panel Case No. 2005-2 (June 25, 2005, Order of M. Bakker, Hearing Officer).

This communication shall be served on opposing counsel, including counsel for the CPO, and filed with the Panel.<sup>2</sup>

3. On or before **November 18, 2014**, New Venue and the Board shall file with the Panel, and serve upon the CPO, a joint statement of the issues to be considered by the Panel on appeal.
4. On or before **November 25, 2014**, the parties shall confer to discuss the issues raised by the stipulations set forth below, to identify any documents on which they may rely and/or introduce at the hearing. Each party will be responsible for providing copies of their designated documents at the Panel hearing.<sup>3</sup>
5. Motions, if any, are to be filed on or before **November 25, 2014**. Responses to any motions are due by **December 9, 2014**. Motions are to be served on opposing counsel, including counsel for the CPO, and filed with the Panel.
6. On or before **December 2, 2014**, the parties shall file a joint document detailing any agreed-upon stipulations of fact.
7. On or before **December 2, 2014**, the parties shall file a joint document that (a) identifies the witnesses expected to be called by each party, which issues such witnesses will testify to, and a summary of anticipated testimony<sup>4</sup>; and (b) identifies any questions of law, deemed by the party to be unique or unusual, that are likely to arise in the hearing and legal authorities in support of the party's position.
8. On or before **December 2, 2014**, the parties shall file a joint document identifying which exhibits and other documentary records contained in the initial record before the Panel that each party intends to rely on or introduce at the hearing. This document shall also contain each party's objections to the admission of particular exhibits and the basis of the objections.<sup>5</sup>
9. All subpoena requests must be submitted to the Panel's counsel no later than **December 2, 2014**.
10. Counsel for the CPO shall file comments, if any, to the parties' jointly filed documents on or before **December 9, 2014**.

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<sup>2</sup> It is expected that the parties will be specific in setting forth their appeal issues before by the Panel, either following the format used by the CPO in his decision and/or some other organized format. A mere recital that a party appeals "all the issues before the CPO" would not be consistent with this Scheduling Order.

<sup>3</sup> At a minimum, eight copies shall be provided for the use of the Panel members and the witness and for inclusion in the Record.

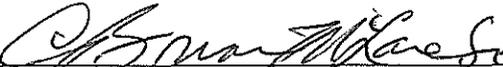
<sup>4</sup> The use of pre-filed testimony is greatly encouraged, particularly in light of the transcripts available from the CPO's hearing. If used, the testimony should be filed with a copy given to opposing counsel at least 10 days before the day scheduled for hearing. The witness should still appear to declare the document his or her testimony and would be subject to cross-examination. Of course, rebuttal testimony would be given at the time of the hearing.

<sup>5</sup> The parties should also stipulate as to which documents can be automatically admitted into evidence. All other documents must be admitted through witness testimony at the hearing.

11. If desired, the parties may file final pre-hearing briefs on or before **December 9, 2014**.
12. The parties are encouraged to cooperate in an effort to complete discovery in advance of the hearing scheduled for **December 16 – 19, 2014**. However, the Panel reserves the right to adjust the deadlines set forth herein as circumstances warrant and upon good cause shown.

**IT IS SO ORDERED.**

**SOUTH CAROLINA PROCUREMENT REVIEW PANEL**

  
BY: C. Brian McLane, Sr., Chairman

Date: November 10<sup>th</sup>, 2014.  
Columbia, SC