

**STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND**

**In Re:** Cancellation of Award to  
Renew Data Corp.

**Cancellation of Award Prior to  
Performance**

Solicitation No. 5400007220  
Relativity Software and Services

**BEFORE THE CHIEF PROCUREMENT OFFICER**

**DECISION**

CASE NO.: 2014-208

POSTING DATE: June 11, 2014

MAILING DATE: June 11, 2014

This matter is before the Chief Procurement Officer for Information Technology (CPO) pursuant to a request from the Information Technology Management Office (ITMO) [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 Renew Data Corp for Relativity Software and Services.

**Basis For The Request**

The ITMO issued Invitation For Bids 5400007220 for Relativity Software and Services on March 5, 2014. Bids were received on April 10, 2014. An Intent to Award a contract to Renew Data Corp was posted on May 16, 2014, [Exh. 1]. Mr. Ron Conner, Procurement Manager with ITMO and the Office of the Attorney General requested cancellation after award but prior to performance under Regulation 19-445.2085(C):

- (1) Inadequate or ambiguous specifications were cited in the invitation;
- (2) Specifications have been revised;
- (4) The invitation did not provide for consideration of all factors of cost to the State, such as cost of transporting state furnished property to bidders' plants;
- (8) For other reasons, cancellation is clearly in the best interest of the State

This solicitation is to establish a term contract for a hosted e-discovery solution using Relativity software for one year with four one-year options to renew. [Solicitation page 34] Amendment One added a requirement for Relativity's analytics functions:

4. Do you anticipate using Relativity's analytics functions on your matters?  
Answer: Yes

Amendment Two added the analytics functions as a line item in the bid schedule.

**ANALYTICS CAPABILITIES**

Within the Relativity hosting environment, contractor must make Analytics functionality available on a per-case basis at the AGO's discretion. Analytics must include, but is not limited to:

- Assisted Review
- Concept Searching
- Similar Document Detection
- Clustering

- Keyword Expansion

Pricing for analytics shall be included as a third line item in addition to basic hosting and user fees, and must be structured as a per Gigabyte per Month fee.

Item	Quantity	Unit of Measure	Unit Price	Extended Price
3	1 GB	GB		
<b>Product Catg.:</b> 92003 - Application Service Provider ASP				
<b>Item Description:</b> OPTIONAL-Monthly Analytics Fee to include services listed in Section III - Analytics Capabilities.				

**Line item 3 is optional.** The AGO anticipates the desire to use Analytics on three cases in the next year. The cost for Analytic capability is in addition to Line item 2, the standard monthly hosting fee. Analytics would be used on a case by case basis.

However, the original formula for calculating the bid price, as published in the solicitation, was not modified to include the cost of the analytics function and the solicitation did not include an estimated quantity of storage required for the analytics function:

#### **CALCULATING THE LOW BID**

The low bid will be calculated by adding the total unit price for the monthly user fee multiplied by 60 to the total unit price for the monthly hosting fee multiplied by 60. (i.e (monthly user fee \* 60) + (monthly hosting fee \* 60)). [Solicitation page 22]

Budget and Control Board Regulation 19-445.2140(B) requires that the specifications take into account the cost of ownership and operation as well as the initial acquisition cost.

#### **Determination**

The original calculation of low bid did not take in consideration all factors of cost. The specifications will be revised to reflect the total cost of ownership as required by the Procurement Code. The award to Renew Data Corp. is cancelled under Regulation 19-445.2085(C) for the reasons state above.




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**Michael B. Spicer**  
**Chief Procurement Officer for Information Technology**

## STATEMENT OF RIGHT TO ADMINISTRATIVE REVIEW

*Written Determination Appeal Notice (Revised October 2010)*

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.

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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](http://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 83.1 of the 2012 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." 2010 S.C. Act No. 291, Part IB, § 83.1. PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

**LEGAL REPRESENTATION:** In order to prosecute an action 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).

**Exhibit 1**

STATE OF SOUTH CAROLINA  
B&CB, DIV. OF PROCUREMENT SERVICES, ITMO  
1201 MAIN STREET, SUITE 601  
COLUMBIA SC 29201

**Intent to Award**

Posting Date: May 16, 2014

**Solicitation:** 5400007220  
**Description:** Relativity Software and Services  
**Agency:** Attorney General's Office

The State intends to award contract(s) noted below. Unless otherwise suspended or canceled, this document becomes the final Statement of Award effective **08:00:00, May 27, 2014**. Unless otherwise provided in the solicitation, the final statement of award serves as acceptance of your offer.

Contractor should not perform work on or incur any costs associated with the contract prior to the effective date of the contract. Contractor should not perform any work prior to the receipt of a purchase order from the using governmental unit. The State assumes no liability for any expenses incurred prior to the effective date of the contract and issuance of a purchase order.

Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest within ten days of the date notification of award is posted in accordance with this code. A protest shall be in writing, shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided, and must be received by the appropriate Chief Procurement Officer within the time provided. [Section 11-35- 4210]

PROTEST - CPO ADDRESS - ITMO: Any protest must be addressed to the Chief Procurement Officer, Information Technology Management Office, and submitted in writing

- (a) by email to [protest-itmo@itmo.sc.gov](mailto:protest-itmo@itmo.sc.gov),
- (b) by facsimile at 803-737-0102, or
- (c) by post or delivery to 1201 Main Street, Suite 601, Columbia, SC 29201.

**Contract Number:** 4400008350  
**Awarded To:** RENEW DATA CORP  
9500 ARBORETUM BLVD  
AUSTIN TX 78759

**Total Potential Value:** \$539,020.00  
**Maximum Contract Period:** May 27, 2014 through December 26, 2019

<b>Item</b>	<b>Description</b>	<b>Unit Price</b>
00001	Monthly User Fee per 1 User	\$ 90.00
00002	Monthly Hosting Fee	\$ 21.39
00003	Analytics - Optional Services	\$ 200.00

**Procurement Officer**  
RON CONNER