

**STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND**

In the Matter of Protests of:

MarketSearch

Materials Management Office  
RFP No. 5400005840

Market Research for the  
South Carolina Department of  
Parks, Recreation and Tourism

**BEFORE THE CHIEF PROCUREMENT OFFICER**

DECISION LIFTING STAY

CASE NO's.: 2013-127

POSTING DATE: October 15, 2013  
MAILING DATE: October 15, 2013

By way of background, the Materials Management Office (MMO) seeks to procure market research for the South Carolina Department of Parks, Recreation and Tourism (SCPRT). MarketSearch protested the intent to award to Strategic Marketing & Research, Inc. and the Chief Procurement Officer ("CPO") has denied the protest. SCPRT has requested that the automatic stay of the procurement during protests provision be lifted based on Section 11-35-4210(7) of the South Carolina Consolidated Procurement Code ("Code"). See the attached request from SCPRT Executive Director, Duane N. Parrish.

Briefly, according to Mr. Parrish, "One element of this successful advertising contract requires that after each one of several marketing campaigns conducted each year, research on the previous campaign is conducted expediently so the results can be compiled, evaluated and incorporated into the next campaign. A spring/summer campaign is released in or around June and a fall/winter campaign in or around December. Marketing research from the spring campaign must begin no later than early to mid-October for the necessary information to be incorporated into the fall campaign in a timely manner." Mr. Parrish's request was submitted to the CPO October 1, 2013.

Regarding the automatic stay, the Consolidated Procurement Code reads, "In the event of a timely protest pursuant to subsection (1), the State shall not proceed further with the solicitation or award of the contract until ten days after a decision is posted by the appropriate chief procurement officer, or, in the event of timely appeal to the Procurement Review Panel, until a decision is rendered by the panel except that solicitation or award of a protested contract is not stayed if the appropriate chief procurement officer, after consultation with the head of the using agency, makes a written determination that the solicitation or award of the contract without further delay is necessary to protect the best interests of the State. [11-35-4210(7) Automatic Stay of Procurement During Protests]

Based on consultation with Mr. Parrish, testimony received during the hearing, and the decision in this case, I find that the award of the contract without further delay is necessary to protect the best interests of the State. Therefore, the automatic stay is lifted, and MMO may proceed with the award of the contract without delay.

  
\_\_\_\_\_  
R. Voight Shealy  
Chief Procurement Officer  
For Supplies and Services

October 15, 2013

Date

Columbia, S.C.

**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.

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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 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**

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\_\_\_\_\_  
Name of Requestor

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Business Phone

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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.**

# South Carolina

Department of Parks, Recreation & Tourism

Nikki R. Haley  
Governor

Duane N. Parrish  
Director

October 1, 2013

Mr. Voight Shealy  
Chief Procurement Officer  
Supplies and Services  
State Office of Budget and Control  
1201 Main Street, Suite 600  
Columbia, South Carolina 29201

Dear Mr. Shealy,

The South Carolina Department of Parks, Recreation, and Tourism (SC PRT) is the state agency mandated by law pursuant to S.C. Code Ann. Sec. 51-1-60 with the responsibility to promote, publicize and advertise the State of South Carolina as a tourist attraction. One component of the State Advertising and Marketing Plan is marketing research. As you may know, a protest has been filed in response to our Intent to Award the contract for Solicitation 5400005840: Provide Marketing Research for the South Carolina Department of Parks, Recreation and Tourism .

Pursuant to S.C. Code Ann. Sec. 11-35-4210(7), as Director of the South Carolina Department of Parks, Recreation and Tourism (SC PRT), I, Duane N. Parrish, am sending this letter to the Chief Procurement Officer in consultation in support of lifting the automatic stay.

## **FACTS IN SUPPORT OF LIFTING THE AUTOMATIC STAY**

As previously stated, the implementation of the State Advertising and Marketing Plan is the responsibility of the South Carolina Department of Parks, Recreation and Tourism each year, making sure the State of South Carolina remains a premium tourist destination, both nationally and internationally. This effort is undertaken through a multi-million dollar contract with a private advertising company , the successful bidder to an RFP conducted through the Materials



Management Office of the State Office of Budget and Control. One element of this successful advertising and marketing contract requires that after each one of several marketing campaigns conducted each year, research on the previous campaign is conducted expediently so the results can be compiled, evaluated and incorporated into the next campaign. A spring/summer campaign is released in or around June and a fall/winter campaign in or around December. Marketing research from the spring campaign must begin no later than early to mid- October for the necessary information to be incorporated into the fall campaign in a timely manner.

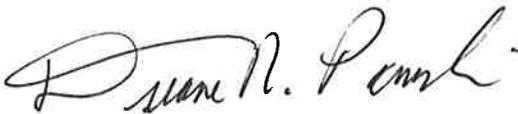
In order to accomplish the most successful marketing plan for the State of South Carolina as planned and budgeted for the fall/winter marketing campaign of 2013, the marketing research must begin within the next two weeks. It is my understanding that the protest hearing date is not even scheduled until October 11, 2013 which means that it will be considerably longer than two weeks before the protest process is complete and a vendor can be provided, thus jeopardizing the ability for the most recent marketing research to be used for the upcoming advertising campaign.

#### **CONCLUSION**

In order to serve the best interests of the State of South Carolina and to provide the best and most effective marketing plan for drawing tourists and the spending of the tourism dollar into the State, thereby increasing the economic benefit to the State, I respectfully request that you lift the stay and allow the successful vendor to conduct the marketing research without delay. Lifting the stay will as a matter of public policy recognize the statewide importance of tourism to the economy of the State of South Carolina.

If you have any questions regarding the information in this letter, please do not hesitate to contact me.

Sincerely,



Duane N. Parrish  
Director, SC PRT