

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

BEFORE THE CHIEF PROCUREMENT OFFICER

DECISION

In Re: Protest of Image Resource, LLC

CASE NO.: 2015-125

Protest of Award to Vision Quest dba
Fastsigns of Charleston to Provide and
Install Interior Signage for the College of
Nursing at the Medical University of
South Carolina, Solicitation No.
RFQ4909-10-31-14-9477-I

POSTING DATE: December 19, 2014

MAILING DATE: December 19, 2014

The South Carolina Consolidated Procurement Code (the Code) grants the right to protest to any actual bidder who is aggrieved in connection with the intended award of a contract. S.C. Code Ann. § 11-35-4210(1)(b). This solicitation is for a contractor to Provide and Install Interior Signage for the College of Nursing at the Medical University of South Carolina. Image Resource, LLC (Image) protests the award of a contract to Vision Quest dba Fastsigns of Charleston. (Fastsigns) [Attachment 1] The Chief Procurement Officer¹ issues this ruling without a hearing.

Findings of Fact

Request for Quotes Published:	10/22/2014
Bid Opening:	10/31/2014
Award Posting	11/03/2014
Protest Received	12/15/2014

Discussion

Image protests that award was improperly based on the Resident Vendor preference, the products provided by Fastsigns do not meet the solicitation requirements, and Fastsigns did not meet the required installation timeframes. Section 11-35-4210(1)(b) states:

(b) 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 in the manner stated in subsection (2)(b) within ten days of the date award or notification of intent to award, whichever is earlier, is posted in accordance with this code

¹ The Interim Materials Management Officer delegated the administrative review of this protest to the Chief Procurement Officer for Information Technology.

This section requires an aggrieved party to protest to the Chief Procurement Officer within 10 days of the posting of the award. This award was posted on November 3, 2014 and Image had 10 days from that date to file a timely protest. Image's protest is dated December 15, 2014 well past the statutory required time to protest.

In addition, Section 11-35-4210(2)(d) states:

(d) The rights and remedies granted by subsection (1) and Section 11-35-4410(1)(b) are not available for contracts with an actual or potential value of up to fifty thousand dollars.

The right to protest is restricted to procurements greater than \$50,000. This award was for \$20,184.97 and a protest is not permitted. [Attachment 2]

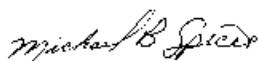
In addition, Image protests that Fastsigns failed to perform in accordance with the contract. Assuming this claim is true, the failure to perform is a breach of the contract between Fastsigns and MUSC and it is incumbent on MUSC to insure performance of the contract or grieve to the Chief Procurement Officer under Section 11-35-4230 which states:

This section applies to controversies between a governmental body and a contractor or subcontractor, when the subcontractor is the real party in interest, which arise under or by virtue of a contract between them including, but not limited to, controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or recession. The procedure set forth in this section constitutes the exclusive means of resolving a controversy between a governmental body and a contractor or subcontractor, when the subcontractor is the real party in interest, concerning a contract solicited and awarded pursuant to the provisions of the South Carolina Consolidated Procurement Code.

Image is not a contractor, subcontractor or governmental body and consequently does not have standing to raise issues related to performance.

Determination

There is no right to protest an award below \$50,000 and even if such a protest were allowed, Image failed to bring that protest within the time allowed. With regard to the performance issues raised by Image lacks standing to raise these issues. For the reasons stated herein, the protest of Image Resource, LLC is denied. For the Materials Management Office



Michael B. Spicer
Chief Procurement Officer

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW
Protest Appeal Notice (Revised October 2014)

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.

Copies of the Panel's decisions and other additional information regarding the protest process is available on the internet at the following web site: <http://procurement.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 108.1 of the 2014 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 financial hardship, the party shall submit a completed Request for Filing Fee Waiver form at the same time the request for review is filed. The Request for Filing Fee Waiver form is attached to this Decision. If the filing fee is not waived, the party must pay the filing fee within fifteen days of the date of receipt of the order denying waiver of the filing fee. Requests for administrative review will not be accepted unless accompanied by the filing fee or a completed Request for Filing Fee Waiver form at the time of filing." 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 209, 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 for South Carolina	Requestor/Appellant
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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.

Attachment 1



CERTIFIED MWBE/SBE/HUB

LETTER OF PROTEST

Date: December 15, 2015
Attention: Chief Procurement Officer
Materials Management Office

Re: Medical Univerisity of South Carolina
RFQ 4909-10/31/14-94771-I
Provide and Install Interior Signage for the
College of Nursing.

This letter is being submitted by Image Resource, LLC regarding the above referenced project for the following reasons:

1. Image Resource, LLC was the low bidder on this project, however Fastsigns of Charleston was awarded the project due to their claim of "Vendor Preference". We are requesting MUSC require proof of this claim due to the signage not being manufactured in the State of South Carolina. We believe the signage was ordered and shipped from Park Place Sign Systems, Hanibal, MO.

2. The signage supplied and installed by Fastsigns of Charleston to MUSC was not manufactured according to MUSC's Signage Standards and much of it has been rejected by MUSC. Most of the signage is the wrong color and is fabricated incorrectly. Fastsigns will be required to replace this signage at their own expense. In addition, the strict deadline for installation was not met. Therefore, we are deeming Fastsigns of Charleston, irresponsible and are requesting a full review of our complaint.

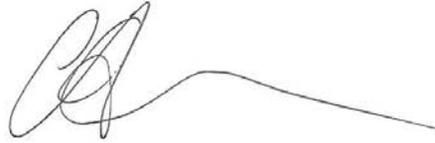
Image Resource, LLC is a State Certified WBE. Fastsigns is not listed as such (<http://www.govoepp.state.sc.us/osmba/directory.html>) However, this box was also checked on their "RFQ Form". Although not a requirement, we are not sure that Fastsigns of Charleston is/was WBE Certified at the time of this bid award.

For verification and confirmation of our claim that the signage did not comply with MUSC Standards the following persons can be contacted:

Jennifer Pearce Aldrich
Quality & Compliance Manager
Engineering and Facilities
Medical University of South Carolina
office: (843) 792-5991
email: pearcej@musc.edu

Loretta E. Sheridan, FMP, CDT, LC
Program Assistant
Engineering and Facilities
97 Jonathan Lucas Street – MSC 190
Medical University of South Carolina
Charleston SC 29425-0190
Tel: 843-792-4292
Fax: 843-792-8563
www.musc.edu

Respectfully,



Cheryl A. Olson
c.imageresource@yahoo.com
Phone: (843) 297-7064
Fax: (843) 771-0823

Mailing Address: 234 Jasmine Dr.
Warehouse: 715 W. 5th North St.
Summerville, SC 29483
CERTIFIED MWBE/SBE/HUB

Utilizing VOC compliant paint finishes. 100% biodegradable ADA compliant polymers
and 100% recyclable base materials.



Attachment 2



**STATE OF SOUTH CAROLINA
MEDICAL UNIVERSITY OF SOUTH CAROLINA
University Purchasing Services
19 Hagood Avenue, Suite 408**

Statement of Award

November 3, 2014

Solicitation : RFQ4909-10-31-14-9477-I

Issue Date : 10/22/14

Opening Date: 10/31/14

Description : Provide and Install Interior Signage for the College of Nursing

Agency : Medical University of South Carolina

Awarded To : Vision Quest dba Fastsigns of Charleston
1655 Savannah Hwy, Suite E
Charleston, SC 29407

Award Amount : \$20,184.97

Bidder's right to protest as listed in section 11-35-4210 in the South Carolina Consolidated Procurement Code does not apply to this award.

MUSC Purchasing Office

Buyer: Debra Cannon, CPPO, CPPB