

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

BEFORE THE CHIEF PROCUREMENT OFFICER

DECISION

In Re: Protest of Pee Dee Food Service.

CASE NO.: 2015-136

Protest of Solicitation No. 5400008932
for Beverage and Snack Vending Services
for Florence Darlington Technical
College

POSTING DATE: March 30, 2015

MAILING DATE: March 30, 2015

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 Beverage and Snack Vending Services for Florence Darlington Technical College. Pee Dee Food Service (Pee Dee) protests that it was denied a fair chance to bid for solicitation 5400008932. [Attachment 1] The Chief Procurement Officer¹ issues this ruling without a hearing.

Findings of Fact

Invitation For Bids Published:	01/12/2015
Amendment 1 Issued	02/13/2015
Amendment 2 Issued	02/17/2015
Bid Opening	03/06/2015
Protest Received	03/13/2015

Discussion

Pee Dee petitions the Chief Procurement Officer as follows:

On the afternoon of Thursday, March 5th, I attempted to log in to on line bidding for solicitation 5400008932. I was directed to change my password, which I did. This failed to allow me to log in, and after several attempts I contacted the Procurement Office. I was given a password and tried logging in again. This attempt failed as well. I was told the issue would have to be looked at [*sic*] and I would get a call back. I received a call in the morning on Friday, March 6th that informed me I could log in. This time it worked. After logging in, I could not find where to enter information and to send attachments. I called the Procurement Office again. After following the on line directions and attempts with the support staff at your office, we were unsuccessful at resolving the issue. I was told to contact Juaquanna Brookins for help. In speaking with Juaquanna, I was able to enter a commission amount, although it was not on the tab that neither the directions, nor the support staff pointed me to. We were not successful at loading the attachments. Because

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

of these issues I was unable to enter a bid on behalf of Pee Dee Food Service. I have attached a copy of the online bid to show what time I started, the last update and that I had entered a commission rate. I contend that because of technical difficulties over the course of two days, Pee Dee Food Service was denied a fair chance to bid for solicitation 5400008932. I would like the bid to be extended another week so any bugs can be worked out, and for Pee Dee Food Service to have an opportunity enter a bid for this invitation.

Section 11-35-4210 of the South Carolina Consolidated Procurement Code sets forth the conditions under which a protest may be filed and limits the Chief Procurement Officer's consideration of protests to those conditions so provided. A prospective bidder may protest a solicitation or amendment to a solicitation within 15 days of the date the solicitation or amendment is published and posted. Section 11-35-4210(1)(a). An actual bidder may protest the award or intent to award a contract within 10 days of the publishing and posting of the award or intent to award. Section 11-35-4210(1)(b). The Chief Procurement Officer can only review protests filed under these conditions. In this case, an award or intent to award has not been published and posted consequently the Chief Procurement Officer cannot review this protest at this time. In the event an award or intent to award is published and posted, and Pee Dee is aggrieved, it may file a timely protest at that time.

Determination

The Chief Procurement Officer lacks jurisdiction to address issues related to this protest.

Protest denied.

For the Information Technology 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

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

From: [Wayne McQuade](#)
To: [Protest-MMO](#)
Subject: Chief Procurement Officer
Date: Friday, March 13, 2015 2:57:50 PM
Attachments: [Protest s d i d t a i o n 5 4 0 0 0 0 8 9 3 2 . d o c x](#)

THANK YOU

WAYNE MCQUADE
OPERATIONS MANAGER
PEE DEE FOOD SERVICE
2499 FLORENCE HARLLEE BLVD
FLORENCE SC 29506
843-679-2911 EXT 2122
WMQUADE@PEE-DEE-FLORENCE.COM



Chief Procurement Officer

I am Wayne McQuade with Pee Dee Food Service in Florence SC. On the afternoon of Thursday, March 5th, I attempted to log in to on line bidding for solicitation 5400008932. I was directed to change my password, which I did. This failed to allow me to log in, and after several attempts I contacted the Procurement Office. I was given a password and tried logging in again. This attempt failed as well. I was told the issue would have to be looked at and I would get a call back. I received a call in the morning on Friday, March 6th that informed me I could log in. This time it worked. After logging in, I could not find where to enter information and to send attachments. I called the Procurement Office again. After following the on line directions and attempts with the support staff at your office, we were unsuccessful at resolving the issue. I was told to contact Juaquanna Brookins for help. In speaking with Juaquanna, I was able to enter a commission amount, although it was not on the tab that neither the directions, nor the support staff pointed me to. We were not successful at loading the attachments. Because of these issues I was unable to enter a bid on behalf of Pee Dee Food Service. I have attached a copy of the online bid to show what time I started, the last update and that I had entered a commission rate. I contend that because of technical difficulties over the course of two days, Pee Dee Food Service was denied a fair chance to bid for solicitation 5400008932. I would like the bid to be extended another week so any bugs can be worked out, and for Pee Dee Food Service to have an opportunity enter a bid for this invitation.

Sincerely

Wayne McQuade

General Manager

Pee Dee Food Service

843-679-2911