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Protest Decision

Matter of: 3H Service System, Inc.

Case No.: 2017-140

Posting Date: May 3, 2017

Contracting Entity: Trident Technical College

Solicitation No.: 5400012857

Description: Janitorial Services for Trident Technical College Main Campus

DIGEST

Protest of solicitation requesting an extension of the bid opening time is denied. 3H Service System's (3H) letter of protest is included by reference. [Attachment 1]

AUTHORITY

The Chief Procurement Officer¹ conducted an administrative review pursuant to S.C. Code Ann. §11-35-4210(4). This decision is based on the evidence and applicable law and precedents.

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

BACKGROUND

<i>Event</i>	<i>Date</i>
Solicitation Issued	03/14/2017
Amendment 1 Issued	04/06/2017
Amendment 2 Issued	04/19/2017
Bid Opening	04/25/2017
Protest Received	04/25/2017

ANALYSIS

This Invitation for Bids was issued by the State Fiscal Accountability Authority on behalf of Trident Technical College on March 14, 2017, to acquire janitorial services for Trident's main campus. Bids were due by 11:00 AM on April 25, 2017. By bid time, SFAA had received six sealed (paper) bids and four bids that had been entered online, through the South Carolina Enterprise Information System (SCEIS).

3H protests this solicitation requesting an extension of the bid due date and time explaining that it was unable to submit its bid through SCEIS. 3H asserts that it attempted to submit its bid by email to the procurement manager at 10:27 AM on April 25, 2017, but the bid was rejected. There is no indication that 3H sought assistance with its SCEIS issues from the help desk. No other bidder reported an inability to access the electronic bidding system.

This was a competitive sealed bid issued under Section 11-35-1520 of the Code. Regulation 19-445.2045 requires "All bids (including modifications) received prior to the time of opening shall be kept secure and, except as provided in subsection B below, unopened." An email submission is not sealed. Furthermore, the IFB specifically provided that "[f]acsimile or e-mail offers, modifications, or withdrawals will not be considered unless authorized by the Solicitation." IFB, Amendment 1, page 11. The solicitation did not authorize bidding by e-mail. The procurement manager properly rejected 3H's email bid submission.

Section 11-35-4210(1)(a) requires:

A prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the solicitation of a contract shall protest to the appropriate chief

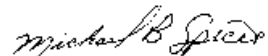
procurement officer in the manner stated in subsection (2)(a) within fifteen days of the date of issuance of the Invitation For Bids or Requests for Proposals or other solicitation documents, whichever is applicable, or any amendment to it, if the amendment is at issue.

The original bid submission date was April 18, 2017. The bid submission date was changed to April 25, 2017 by Amendment 1 on April 6, 2017. Amendment 2 did not modify the bid submission date. The deadline for protesting the bid submission date was Friday, April 21, 2017. 3H filed its protest with the CPO on April 25, 2017. 3H's protest of the solicitation was not filed within the statutory limits established by the Code.

DECISION

For the reasons stated above, the protest of 3H Service System, Inc. is dismissed.

For the Materials Management Office



Michael B. Spicer
Chief Procurement Officer

Attachment 1



3H System

www.e-3h.us

April 25, 2017

Transmitted via email:
protest-mmo@mmo.state.sc.us
mmis@mmo.sc.gov

Division of Procurement Services
State Procurement Office
SC State Fiscal Accountability Authority
1201 Main Street, Suite 600
Columbia SC 29201
(803) 737-0983

Bid Protest for Solicitation NO: 5400012857 - TTC- SC.

3H Service System, Inc. (referenced herein as "3H") would like to file a formal protest for Solicitation No: 5400012857-TTC-SC for the following reasons:

Background:

On April 24, 2017, 3H attempted to add attachments and submit our bid within the SCEIS portal system for the above referenced solicitation, however, we were experiencing technical issues with the portal as we were creating a response for this solicitation. The SCEIS portal would indicate a message referencing that "someone else is creating a response for this RFX" and therefore, the portal would not allow us to submit or add any attachments.

3H would log out, log back in, close out the web browser we were using, open a new web browser, and use any other methods to start a new "Create a Response" within the portal, however, the same message would appear indicating that we have been logged on elsewhere which prohibited 3H from making any changes to the solicitation.

Facts:

On April 25, 2017, 3H attempted again this morning around 10 AM and we successfully logged into the portal. 3H was adding attachments but it seemed one of our attachments title exceeded the 30 character limit under the portal system so we shortened the title of our attachment. As we went back to the portal to re-attach the newly shortened attachment, the portal refreshed itself and the same message of "someone else is creating a response for this RFX" appeared again and therefore, 3H could not change or edit anything to this RFX in the system resulting in 3H's inability to submit our bid within the deadline.



3H System

www.e-3h.us

We sent an email to Melissa Mims at 10:27 AM with the bid attachments required for this solicitation and with an explanation as to why we sent our bid via email, however, Ms. Mims did not accept our email bid.

This has been a frustrating issue, as we know 3H was the sole individual logged into the SCEIS portal, however, nothing we could do would remedy the situation which resulted 3H missing the deadline.

Request:

3H formally request that the bid deadline be extended for this solicitation as experiencing this level of technical difficulty was an unforeseen event for 3H.

Sincerely,

John Heo

John Heo
CEO
3H Service System, Inc.

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised November 2016)

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 111.1 of the 2016 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
1205 Pendleton Street, Suite 473, 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 of 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.