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Protest Decision

Matter of: MedX, Inc.

Case No.: 2017-142

Posting Date: May 2, 2017

Contracting Entity: South Carolina Vocational Rehabilitation Department

Solicitation No.: 5400012483

Description: Transcription Services

DIGEST

Protest of award alleging apparent successful bidder will not perform in accordance with the requirements of the contract is denied. iMedX's 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	01/27/2017
Amendment 1 Issued	02/24/2017
Amendment 2 Issued	03/07/2017
Bid Opening	03/24/2017
Intent to Award Issued	04/25/2017
Protest Received	04/26/2017

ANALYSIS

This Invitation for Bids was issued by the State Fiscal Accountability Authority on behalf of SC Vocational Rehabilitation Department on March 14, 2017, to acquire transcription services for Voc. Rehab. An Intent to Award the contract to Clairsol, Inc. was posted on April 25, 2017. ImedX protests, stating “It is our belief that Clairsol, Inc. will not perform the services strictly within the United States at the awarded price of 6.21 cents per 72-character line.”

The solicitation prohibits any part of the contract being performed offshore:

OFFSHORE CONTRACTING PROHIBITED (FEB 2015)

No part of the resulting contract from this solicitation may be performed offshore of the United States by persons located offshore of the United State or by means, methods, or communications that, in whole or in part, take place offshore of the United States. [07-7B122-1]

[Amendment 2, Page 33]

The procurement manager sought verification of Clairsol’s understanding of this requirement on April 10, 2017, prior to award, and received the following response on April 11, 2017:

Good Afternoon Ms. Mims,

Yes, Clairsol, Inc. understands and complies with this requirement. Our employees are located in United States and no part of the resulting contract from this solicitation will be performed offshore of the United States by persons located offshore of the United State or by means, methods, or communications that, in whole or in part, take place offshore of the United States.

Protest Decision, page 3

Case No. 2017-142

May 2, 2017

Please feel free to contact us if you have any further questions.

Thank you,

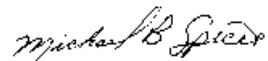
*Rahul Vajpayee
Chief Operating Officer
Clairsol, Inc
16 Wernik Place, Suite C
Metuchen, NJ 08840*

This is a requirement of the contract. Clairsol has agreed to perform in accordance with the contract at the price bid. There is no basis for rejecting Clairsol's bid based on a belief that it may violate the contract. *See, e.g., Appeal by Otis Elevator Company, Panel Case No. 2017-1; Appeal by Catamaran, Panel Case No. 2015-2.* iMedX's protest is denied.

DECISION

For the reasons stated above, the protest of iMedX, Inc. is denied.

For the Materials Management Office



Michael B. Spicer
Chief Procurement Officer

Attachment 1

From: [Jeffrey McKee](#)
To: [Protest-MMO](#)
Cc: [Jim Banghart](#); [Mims, Melissa](#)
Subject: Solicitation Number 5400012483 - Transcription Services
Date: Wednesday, April 26, 2017 1:41:34 PM
Attachments: [image500000.png](#)
[image628001.png](#)
[image946002.png](#)
[image840003.png](#)

Dear Sir or Madam:

iMedX has been honored to provide transcription services to the SC Vocational Rehab Department for the past several years. As such, we are very familiar with the department's requirements, including the mandate to perform the services within the United States.

iMedX is protesting the contract award to Clairsol, Inc.

It is our belief that Clairsol, Inc. will not perform the services strictly within the United States at the awarded price of 6.21 cents per 72-character line.

1. 6.21 cents per 72-character line is equivalent to 5.6 cents per 65-character line. The 65-character line is the defacto pay standard for US-based transcriptionists.
2. As an employer of more than 300 US-based transcriptionists, iMedX is deeply knowledgeable about minimum compensation rates for qualified domestic transcriptionists.
3. The awarded rate of 5.6 cents per 65-character line is **LESS than** the *average minimum cost* of qualified US-based labor.
4. Therefore, we believe it is highly probable that Clairsol, Inc., will perform all or a portion of the awarded work outside of the United States.

We strongly encourage the Materials Management Office to reexamine the qualifications of all bidders to perform the work exclusively in the United States. Please don't hesitate to contact either Jim Banghart, Chief Revenue Officer, or myself, if you would like to discuss this further.

Sincerely,
Jeff

Page 32

OFFSHORE CONTRACTING PROHIBITED (FEB 2015)

No part of the resulting contract from this solicitation may be performed offshore of the United States by persons located offshore of the United State or by means, methods, or communications that, in whole or in part, take place offshore of the United States. [07-7B122-1]

Contract 4400015968

Validity Start	05/05/2017	Back to Initial Screen	Validity End	05/04/2022
Target Value	\$ 1,106,622.00	FEIN		91-2145216
Bid Invitation	5400012483 - TRANSCRIPTION SERVICES			

Contract Notes

Vendor 7000065994

Vendor Address
CLAIRSOL INC
16 WERNIK PLACE SUITE C
METUCHEN NJ 08840

District		E-mail
Telephone	(732) 321-1155	Fax Number
Minority Status	Not Applicable	



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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.