

HENRY MCMASTER, CHAIR  
GOVERNOR

CURTIS M. LOFTIS, JR.  
STATE TREASURER

RICHARD ECKSTROM, CPA  
COMPTROLLER GENERAL



HUGH K. LEATHERMAN, SR.  
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE  
CHAIRMAN, HOUSE WAYS AND MEANS COMMITTEE

GRANT GILLESPIE  
EXECUTIVE DIRECTOR

THE DIVISION OF PROCUREMENT SERVICES

DELBERT H. SINGLETON, JR.  
DIVISION DIRECTOR  
(803) 734-8018

MICHAEL B. SPICER  
INFORMATION TECHNOLOGY MANAGEMENT OFFICER  
(803) 737-0600  
FAX: (803) 737-0639

## Protest Decision

**Matter of:** ACTS Document Management, Inc.

**Case No.:** 2017-144

**Posting Date:** May 3, 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. ACTS Document Management's (ACTS) letter of protest is included by reference. [Attachment 1]

### AUTHORITY

The Chief Procurement Officer<sup>1</sup> 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.

---

<sup>1</sup> 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	05/02/2017

## 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.

ACTS protests, stating “There is a prohibition in the Solicitation to offshoring of work and there were numerous comments regarding no offshoring of work during the pre-bid meeting, as well as the requirement to use actual transcriptionists to prepare the reports and not rely solely upon an automated speech recognition system. When we see pricing as low as this, \$0.0621 per line, we immediately start to think that there must be some sort of misunderstanding.”

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.

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*

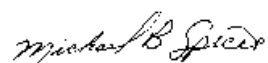
This is a requirement of the contract. Clairsol has agreed to perform in accordance with the contract at the price bid. There is no basis for rejecting Clairsol's bid based on a belief that it may violate the contract. *See, e.g., Appeal by Otis Elevator Company, Panel Case No. 2017-1; Appeal by Catamaran,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

ACTS points out that Clarisol's public facing web site is not an https secured website and contains "many instances of unusual phrasing," but does not allege a violation of the solicitation requirements or Code. The CPO takes note that there is no requirement that a bidder's public facing web site be secured. There are requirements for secure transmission and storage of the data associated with this contract and like all other responsible bidders, Clairsol completed the Service Provider Security Assessment Questionnaire which was reviewed prior to award and found acceptable.

## **DECISION**

For the reasons stated above, the protest of ACTS Document Management, Inc. is denied.

For the Materials Management Office



---

Michael B. Spicer  
Chief Procurement Officer

## Attachment 1



Our Technology Builds An Innovative Foundation

---

May 2, 2017

SFAA, Div. of Procurement Services, MMO  
ATTN: Chief Procurement Officer  
1201 Main Street, Suite 600  
Columbia, SC 29211  
**(via email)**

RE: Protest of Award for Solicitation 5400012483  
Transcription Services

Dear Chief Procurement Officer:

ACTS Document, Inc., hereby respectfully submits its protest to the intended award of a contract resulting from Solicitation 5400012483, Transcription Services, to Clairsol, Inc.

### BASIS OF PROTEST

#### PRICING EXTREMELY LOW FOR US STAFF

There is a prohibition in the Solicitation to offshoring of work and there were numerous comments regarding no offshoring of work during the pre-bid meeting, as well as the requirement to use actual transcriptionists to prepare the reports and not rely solely upon an automated speech recognition system. When we see pricing as low as this, \$0.0621 per line, we immediately start to think that there must be some sort of misunderstanding.

The going rate for straight type transcription in the US is generally \$0.08 per line. When the company uses a speech engine to convert speech to text, the transcriptionists become editors. They review the text file for errors/changes, and as editors they generally receive only \$0.04 per line.

Having said the above, for all straight type reports (no speech engine involved), a company bidding below \$0.08 per line is most likely losing money should they be using US staff and only straight type methods.



604 4<sup>th</sup> Street East • PO Box 103 • South Point, OH 45680  
Phone 888-444-0560 • Fax 800-372-8516  
[www.acts-dm.com](http://www.acts-dm.com)



RE: Protest of Award for Solicitation 5400012483  
Transcription Services

A US company that uses a speech engine, when adding in the speech engine costs (generally around \$0.02 cents per line) and the usual \$0.04 per line cost for the transcriptionist/editor, and also the general and administrative costs associated with running a transcription service, again will most likely losing money at the awarded price.

At our very low bid price, we were going to make absolutely bare minimum profit overall with the combination of straight type reports and speech engine technology.

**REVIEW OF CLAIRSON WEBSITE**

First, I reviewed the Clairson website. It is http, not secure https.

Further, there are many instances of unusual phrasing. Here are some examples from the website that may be worth considering:

- o We analyzed them **threadbare (INSTEAD OF SELLING A PRODUCT DOWN THEIR THROAT)**.
- o And I promise that your view about **dictation system** and its role in reliable turnaround will **change FOREVER!**
- o Do radiology centers or hospitals **don't know** that they need:
- o Finally, in times of hollow **2 for 1** slogans, fake promises of salespeople, **degrading trusts in politicians and corporations...**
- o ...if you have to bring anything to our notice.
- o You can do away with the **hunting different transcriptionists tracking their leaves,...**
- o Their dictation systems are unable to save dictations for **long enough time**.
- o These dictation System companies do a very good job at **ripping hospitals of** with their expensive dictation systems and even more **blood-sucking maintenance contracts**.
- o They all were suffering from bad turnaround for **long time**.
- o But make no mistake about it. **Situation is desperate**. And companies like Dictaphone, Lanier **hijack this helplessness** of hospitals to sell product after product, maintenance contract after maintenance contract, which doesn't solve the problem and only **sucks hospital meager resources**.
- o **Disgusting... isn't it?** After all its HealthCare money.

There are more examples throughout the website.

RE: Protest of Award for Solicitation 5400012483  
Transcription Services

### RELIEF SOUGHT

We just want to ensure we have a level playing field here and ask that you look further into this to ensure that there has been no misunderstanding. We fully understand that there is an absolute prohibition against offshoring this work, that US transcriptionists must be used, and that using only speech recognition software is not acceptable.

Further, should ACTS Document Management, Inc., be next in line, we respectfully request the contract be awarded to ACTS.

As a Service Disabled Veteran Owned Small Business (SDVOSB) certified by the Veterans Administration, by the State of New York, and very recently by the State of Ohio, we are, and have always been, committed to using US-only staffing and are dedicated to legally winning contracts so that we may employ more US staff.

Respectfully submitted,



Luther (Brad) Runyon  
President/CEO

**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.**