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THE DIVISION OF PROCUREMENT SERVICES

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DIVISION DIRECTOR
(803) 734-8018

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

Written Determination

Matter of: Cancellation of Award to Southern Computer Warehouse

Case No.: 2017-206

Posting Date: April 19, 2017

Contracting Entity: SC Department of Mental Health

Solicitation No.: 5400012981

Description: Topaz Signature Pads

This matter is before the Chief Procurement Officer for Information Technology (CPO) pursuant to a request from the South Carolina Department of Mental Health (DMH) [Ex. 1] under the provisions of §11-35-1520(7) of the South Carolina Consolidated Procurement Code (Code) and Regulation 19-445.2085(C) to cancel an award to Southern Computer Warehouse (SCW) for the provision of Topaz Signature Pads.

BASIS FOR THE REQUEST

DMH issued solicitation 5400012981 for Topaz Signature Pads on March 20, 2017 and received seven bids on March 21, 2017. SCW was the low bidder after the application of the resident vendor and US end product preferences and an award was issued to SCW March 23, 2017. After award but prior to performance it was determined that SCW did not qualify for the resident

vendor preference without which it would not be the low bidder. In order to qualify for the resident vendor preference under Section 11-35-1524(C)(1) the vendor must maintain an office in this State as follows:

(C)(1) When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease a bidder's price by seven percent if the bidder maintains an office in this State and either ...

An office is defined in Section 11-35-1524(A)(6) as:

(6) "Office" means a nonmobile place for the regular transaction of business or performance of a particular service which has been operated as such by the bidder for at least one year before the bid opening and during that year the place has been staffed for at least fifty weeks by at least two employees for at least thirty-five hours a week each.

When questioned, SCW acknowledged that it has an office, but it is staffed by a single employee. (Attachment 2)

SCW has acknowledged that its claim for the resident vendor preference was made in error. Since evaluation of SCW as the apparent low bidder was based on the mistaken preference claim, the award was made in error. DMH requests cancellation of the award prior to performance due to an administrative error by the purchasing agency in accordance with Regulation 19-445.2085(C), which provides in part:

Cancellation of Award Prior To Performance.

After an award or notification of intent to award, whichever is earlier, has been issued but before performance has begun, the award or contract may be canceled and either re-awarded or a new solicitation issued or the existing solicitation canceled, if the Chief Procurement Officer determines in writing that:

(7) Administrative error of the purchasing agency discovered prior to performance, or

(8) For other reasons, cancellation is clearly in the best interest of the State.

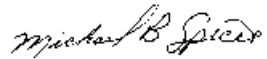
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Case No. 2017-206

April 19, 2017

DETERMINATION

The award to Southern Computer Warehouse is cancelled under Regulation 19-445.2085(C).



Michael B. Spicer

Chief Procurement Officer for Information Technology

Exhibit 1



State of South Carolina Department of Mental Health

MENTAL HEALTH COMMISSION:

Alison Y. Evans, PsyD, Chair
Everard Rutledge, PhD, Vice Chair
Beverly Cardwell
Louise Haynes
Bob Hiott, MEd
J. Buxton Terry
Sharon L. Wilson

2414 Bull Street • P.O. Box 485
Columbia, SC 29202
Information: (803) 898-8581

John H. Magill
State Director of Mental Health

March 28, 2017

Mike Spicer-Chief Procurement Officer
Procurement Services Division
1201 Main Street, Suite 600
Columbia, SC 29201


Mr. Spicer,

With solicitation 5400012981, SCDMH sought to setup a two year contract for Topaz Signature Pads. Seven responses were received for this solicitation and on March 23, 2017, Southern Computer Warehouse was awarded after application of Resident Vendor and US End Product Preferences. The award amount was \$50,406. On March 27, Team One Repair Inc. emailed the Buyer and inquired about the preference application and further conversation questioned the validity of Southern Computer Warehouse's Resident Vendor Preference claim. The Buyer contacted Southern Computer Warehouse. After a review, Southern Computer Warehouse informed the Agency that this claim was in error and that their SC office did not meet the requirements to claim this preference.

SCDMH requests relief from the award to Southern Computer Warehouses as is allowed by the SC Consolidated Procurement Code Regulation 19-445-2085(7) for Administrative Error by the purchasing agency post award prior to performance.

Please contact me with any questions regarding this issue at 803-898-8486.

Regards,


Stephen L. Pullie, CPPB
SCDMH Procurement Director

MISSION STATEMENT

To support the recovery of people with mental illnesses.



Stay of Award
Contract 4400015671
3/27/2017

The award to Southern Computer Warehouse, Inc. for Topaz Signature Pads on solicitation 5400012981 is stayed due to a question raised regarding the application of the SC Resident Vendor Preference. The SC Department of Mental Health will gather information regarding this issue in an attempt to reach a quick resolution.

Stephen L. Pullie, CPPB
SCDMH Purchasing Director

STATE OF SOUTH CAROLINA
SC DEPT. OF MENTAL HEALTH
SCDMH PROCUREMENT OFFICE
2414 BULL STREET, ROOM 201
COLUMBIA SC 29201

Statement of Award

Posting Date: March 23, 2017

Solicitation: 5400012981
Description: TOPAZ SIGNATURE PADS
Agency: DMH Administration

The State awards the contract(s) noted below. This document is the final Statement of Award, effective 17:00:00, March 23, 2017. Unless otherwise provided in the solicitation, the final statement of award serves as acceptance of your offer.

Contractor should not perform work on or incur any costs associated with the contract prior to the effective date of the contract. Contractor should not perform any work prior to the receipt of a purchase order from the using governmental unit. The State assumes no liability for any expenses incurred prior to the effective date of the contract and issuance of a purchase order.

RESIDENT VENDOR PREFERENCE (AS DEFINED IN SECTION 11-35-1524) HAS BEEN APPLIED IN THIS AWARD.

Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest within ten days of the date notification of award is posted in accordance with this code. A protest shall be in writing, shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided, and must be received by the appropriate Chief Procurement Officer within the time provided. [Section 11-35- 4210]

PROTEST - CPO ADDRESS - ITMO: Any protest must be addressed to the Chief Procurement Officer, Information Technology Management Office, and submitted in writing

- (a) by email to protest-itmo@itmo.sc.gov ,
- (b) by post or delivery to 1201 Main Street, Suite 601, Columbia, SC 29201.

Contract Number: 4400015671
Awarded To: SOUTHERN COMPUTER WAREHOUSE, INC. (7000040736)
1395 S MARIETTA PKWY SE BLDG 300 STE 106
MARIETTA GA 30067

Total Potential Value: \$ 50,406.00
Maximum Contract Period: March 24, 2017 through March 23, 2019

Item	Description	Unit Price	Total
00001	Topaz -S460-HSB-R Wired Sig Pad	\$ 84.01	\$ 50,406.00

Procurement Officer
ANDREW JACKSON

Preferences Calculator

What type of line item is being compared? Commodity Service

Solicitation Number: 5400012981

Line Item: One

Buyer: Andrew Jackson

Date: 3/21/2017

VENDOR	PREFERENCE	SUBCONTRACTORS	BID	REDUCTION	ADJUSTED	LOW BID			
Enter Vendor Name	Select Preference(s)	RSCP-2% Claims	RSCP-4% Claims	State Office	Message Indicator	Vendor's Bid Amount	Calculated from Preferences	Bid less Reduction	Identified by Comparing Adjusted Bids
Team One Repair Inc.	USEPP	0	0	<input type="checkbox"/>		\$48,630.00	2%	\$47,657.40	
HMB Inc.	No Preferences	0	0	<input type="checkbox"/>		\$48,000.00	0%	\$48,000.00	
Taylor Data Systems Inc.	RVP	0	0	<input type="checkbox"/>		\$53,400.00	7%	\$49,662.00	
Southern Computer Warehouse	RVP + USEPP	0	0	<input type="checkbox"/>		\$50,406.00	9%	\$45,869.46	LOW BID
Ace Office Supplies	USEPP	0	0	<input type="checkbox"/>		\$48,600.00	2%	\$47,628.00	
Scan Technology Inc.	No Preferences	0	0	<input type="checkbox"/>		\$48,378.00	0%	\$48,378.00	
SHI International Corp.	No Preferences	0	0	<input type="checkbox"/>		\$49,896.00	0%	\$49,896.00	
	No Preferences	0	0	<input type="checkbox"/>					
	No Preferences	0	0	<input type="checkbox"/>					
	No Preferences	0	0	<input type="checkbox"/>					
	No Preferences	0	0	<input type="checkbox"/>					
	No Preferences	0	0	<input type="checkbox"/>					
	No Preferences	0	0	<input type="checkbox"/>					
	No Preferences	0	0	<input type="checkbox"/>					

* The preferences must be applied to the price of each line item of end product or work, as applicable, regardless of whether award is to be made by item or lot. Accordingly, this Preferences Calculator should be used separately for each line item. Of course, a preference must not be applied to an item for which a bidder does not qualify.

Attachment 2

From: Julia Stewart [<mailto:julia.stewart@scw.com>]
Sent: Monday, March 27, 2017 2:52 PM
To: Andrew Jackson
Cc: susan.hamrick@scw.com
Subject: RE: FB 5400012981 / Topaz Signature Pads / OPP 3300 SC Dept. of Mental Health

Andrew,

We meet all of the requirements except we just have one employee and not two.

Thanks,

Julia Stewart | Sales Manager

SCW | 1395 S. Marietta Parkway | Building 300 | Marietta, GA 30067
877.GOTOSCW | Fax 770.874.2497
SCW.com

New Remit address: PO Box 745102 Atlanta, GA 30374-5102

Visit the all new - scw.com

Find, Like & Follow Us -    

From: Andrew Jackson [<mailto:andrew.jackson@scdmh.org>]
Sent: Monday, March 27, 2017 2:35 PM
To: Julia Stewart
Cc: susan.hamrick@scw.com
Subject: RE: FB 5400012981 / Topaz Signature Pads / OPP 3300 SC Dept. of Mental Health

Julia, Does your South Carolina office meet the description as stated below?

Office” means a non-mobile place for the regular transaction of business or performance of a particular service which has been operated as such by the bidder for at least one year before the bid opening and during that year the place has been staffed for at least fifty weeks by at least two employees for at least thirty-five hours a week each.

Seen link : <http://law.justia.com/codes/south-carolina/2012/title-11/chapter-35/section-11-35-1524>

Please Respond asap,

Andrew G. Jackson
SCDMH Procurement
2414 Bull Street
Columbia, SC 29202
803.898.8484

From: Julia Stewart [<mailto:julia.stewart@scw.com>]
Sent: Monday, March 27, 2017 2:24 PM
To: Andrew Jackson
Cc: susan.hamrick@scw.com
Subject: RE: FB 5400012981 / Topaz Signature Pads / OPP 3300 SC Dept of Mental Health
Importance: High

Hi Andrew,

I just left a voicemail for you regarding this bid. It appears that we selected in state preference based on a misunderstanding of this requirement. We do have an employee that maintains an office for SCW in South Carolina, but she is only one employee and if I remember correctly the number is higher than just one.

I do apologize for the error; the employee that submitted this bid (not Susan) was newer to our bid process and did what she thought to be correct.

Please let me know what the next steps are so we can make sure you can move forward.

Thank you,

Julia Stewart | Sales Manager

SCW | 1395 S. Marietta Parkway | Building 300 | Marietta, GA 30067

877.GOTOSCW | Fax 770.874.2497

SCW.com

New Remit address: PO Box 745102 Atlanta, GA 30374-5102

Visit the all new - scw.com

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Written Determinations Appeal Notice (Revised November 2016)

The South Carolina Procurement Code, in Section 11-35-4410, subsection (1)(b), states:

- (1) Creation. There is hereby created the South Carolina Procurement Review Panel which shall be charged with the responsibility to review and determine de novo:
- (b) requests for review of other *written determinations*, decisions, *policies*, and *procedures* arising from or concerning the procurement of supplies, services, information technology, or construction procured in accordance with the provisions of this code and the ensuing regulations; except that a matter which could have been brought before the chief procurement officers in a timely and appropriate manner pursuant to Sections 11-35-4210, 11-35-4220, or 11-35-4230, but was not, must not be the subject of review under this paragraph. Requests for review pursuant to this paragraph must be submitted to the Procurement Review Panel in writing, setting forth the grounds, within fifteen days of the date of the written determinations, decisions, policies, and procedures.

(Emphasis added.) See generally *Protest of Three Rivers Solid Waste Authority by Chambers Development Co., Inc.*, Case Nos. 1996-4 & 1996-5, *Protest of Charleston County School District*, Case No. 1985-5, *Charleston County School Dist. v. Leatherman*, 295 S.C. 264, 368 S.E.2d 76 (Ct.App.1988).

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.