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## Protest Decision

**Matter of:** Global Alertlink, LLC

**Case No.:** 2017-217

**Posting Date:** June 26, 2017

**Contracting Entity:** State Fiscal Accountability Authority

**Solicitation No.:** 5400013276

**Description:** Disaster Recovery Planning Software Solution

### DIGEST

Premature protest is denied. Global Alertlink's (GA) letter of protest is included by reference.  
[Attachment 1]

### AUTHORITY

The Chief Procurement Officer 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.

### BACKGROUND

<i>Event</i>	<i>Date</i>
Solicitation Issued	04/27/2017
Protest Received	06/16/2016

## ANALYSIS

This Invitation for Bids was issued by State Fiscal Accountability Authority for Disaster Recovery Planning Software Solution on April 27, 2017. Proposals were opened on May 26, 2017. At this time, no award has been made. GA filed its protest on June 16, 2017, to have its bid added to the viable vendor list, accepted and considered before evaluations complete as follows:

Would you please review my request to have Global AlertLink's bid accepted.

Here is a summary of why I believe it should be considered:

- Electronic Media is described as a USB or CD in the bid, my line out was to make the packing slip clear and not making any modification
- This was my third submission of the bid, two previous exact copies did include a total of the now required 4 USBs
- About a week before my last submission I sent an email asking if there was a difference in a CD or USB and there was no response

For these reasons I believe the bid should be accepted and considered.

The South Carolina Consolidated Procurement Code provides two windows during which participants in the public procurement process may protest the actions of the State. The first opportunity is within fifteen days of issuance of solicitation documents when the Code grants a potential bidder, offeror, contractor, or subcontractor the right to protest the solicitation as follows:

Section 11-35-4210(1) (a) 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.

(emphasis added) The opportunity to protest the solicitation expired on May 12, 2017.

The second opportunity for a bidder to protest is within 10 days of the posting of the award. The Code also grants actual bidders, offerors, contractors, or subcontractors the right to protest the award or intended award of a contract as follows:

Section 11-35-4210(1) (b) Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest to the appropriate chief procurement officer in the manner stated in subsection (2)(b) within ten days of the date award or notification of intent to award, whichever is earlier, is posted in accordance with this code; except that a matter that could have been raised pursuant to (a) as a protest of the solicitation may not be raised as a protest of the award or intended award of a contract.

(emphasis added) These are the only two windows during which a Chief Procurement Officer can review a protest. Since no award has been made, the opportunity to protest has not arrived, and the CPO cannot review a protest received during this time. Once an award is posted, GA will have the opportunity to timely file a protest and have its issues reviewed by the CPO.

## **DECISION**

For the reasons stated above, the protest of Global Alertlink, LLC is dismissed as untimely.

For the Information Technology Management Office



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Michael B. Spicer  
Chief Procurement Officer

## Attachment 1

**From:** [Ray Gantney](#)  
**To:** [Donald, Tameeka](#)  
**Cc:** [itmo\\_protest](#)  
**Subject:** RE: Important Discussions/Clarifications for Solicitation# 5400013276  
**Date:** Friday, June 16, 2017 1:30:48 PM

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Dear Ms. Donald,

This is a protest to have Global AlertLink's bid submission added to the viable vendor list, accepted and considered before evaluations complete.

Would you please review my request to have Global AlertLink's bid accepted.

Here is a summary of why I believe it should be considered:

- Electronic Media is described as a USB or CD in the bid, my line out was to make the packing slip clear and not making any modification
- This was my third submission of the bid, two previous exact copies did include a total of the now required 4 USBs
- About a week before my last submission I sent an email asking if there was a difference in a CD or USB and there was no response

For these reasons I believe the bid should be accepted and considered.

Respectfully,

Ray Gantney  
Global AlertLink

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**From:** Ray Gantney  
**Sent:** Wednesday, June 14, 2017 10:12 AM  
**To:** 'Donald, Tameeka' <tdonald@mmo.sc.gov>  
**Subject:** RE: Important Discussions/Clarifications for Solicitation# 5400013276

Hi Tameeka,

The bid defines electronic media as noted below [02-2B070-2] and I have provided the total number of USB's through two separate submissions. I understand at least one is defective or was damaged in transit.

May I send you 4 more USB's? They could be there tomorrow.

Thanks,

Ray

**STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW**

*Protest Appeal Notice (Revised September 2015)*

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.

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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 2015 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**

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\_\_\_\_\_  
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: \_\_\_\_\_

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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.**