

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: Integra, Inc.

Case No.: 2018-133

Posting Date: March 7, 2018

Contracting Entity: State Fiscal Accountability Authority

Solicitation No.: 5400013739

Description: Educational Furniture Statewide Contract

DIGEST

Untimely protest of solicitation requirements is dismissed. Integra'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 materials in the procurement file 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	09/08/2017
Amendment 1 Issued	10/05/2017
Amendment 2 Issued	10/23/2017
Amendment 3 Issued	11/01/2017
Amendment 4 Issued	01/10/2018
Amendment 5 Issued	01/22/2018
Protest Received	01/31/2018

ANALYSIS

The State Fiscal Accountability Authority (SFAA) issued this Fixed Price Bid (FPB) on September 8, 2017 to establish a state term contract for educational furniture. The solicitation required:

At a minimum, Offerors must demonstrate the ability to offer the items listed within the category for which they would like to be awarded. Offerors shall bid on each category by providing their percentage discount from list.

[Solicitation, Page 44] The original solicitation included eleven categories of furniture including Category 4:

Dormitory/Housing Furniture

At a minimum, Offerors must demonstrate the ability to provide beds, tables, desks, chairs, storage/cabinets, shelving, common area furniture.

[Solicitation, Page 45] Category 6:

Healthcare/Infirmary Furniture

At a minimum, Offerors must demonstrate the ability to provide treatment beds & couches, medical cabinets, lockers, & storage, seating (*reception, treatment, & stools*), carts, tables, tables (therapy, overbed, massage, examination, recovery, side, mobile, reception), desks, and records storage.

[Solicitation, Page 45] and Category 7:

Library/Media Center Furniture

At a minimum, Offerors must demonstrate the ability to provide library shelving, carts, work stations, collaborative learning pieces, student lounge seating & tables, display pieces, computer work stations, ottomans, stacked/nesting seating, tables (*work, end, coffee, side, cocktail*), reception area seating and tables, and meeting room furniture.

[Solicitation, Page 46]

Integra advises that it does not offer all the items listed in the following three categories and protests the solicitation as unduly restrictive:

Category 4 – Dormitory/Housing Furniture, Integra offers lounge seating and occasional tables for common areas and dorm rooms. However since we don't offer beds, desks, storage cabinets and shelving, we are not able to submit for this category.

In Category 6 – Healthcare/Infirmary Furniture, Integra offers waiting room furniture. However since we don't have treatment beds, medical cabinets, lockers and storage, we are not able to submit for this category.

In Category 7 – Library/Media Center Furniture, Integra offers collaborative furniture, ottomans, lounge seating and tables. However since we don't have shelving, workstations, display pieces, computer workstations and stack chairs, we are not able to submit for this category.

Section 11-35-4210(1)(a) grants a prospective bidder the right to protest as follows:

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. An Invitation for Bids or Request for Proposals or other solicitation document, not including an amendment to it, is considered to have been issued on the date required notice of the issuance is given in accordance with this code.


The original solicitation was issued on September 8, 2017 and put bidders on notice that, at a minimum, they must demonstrate the ability to offer the items listed within the category for which they would like to be awarded. While the items listed in several categories were modified

through several amendments, the requirement that the bidders provide all items in a category was not modified. Integra did not protest this requirement until January 31, 2018, 144 days after issuance of the solicitation. Since the protest was not received within the statutory time limit of 15 days after issuance of the solicitation, the protest is dismissed as untimely.

DECISION

For the reasons stated above, the protest of Integra, Inc. is dismissed.

For the Materials Management Office

A handwritten signature in cursive script that reads "Michael B. Spicer".

Michael B. Spicer
Chief Procurement Officer

Attachment 1



January 31, 2018

Stacy Gregg, CPPO, CPPB, Procurement Manager
SFAA, Div. of Procurement Services, MMO
Columbia, SC 29211

RE: Solicitation 5400013739 Educational Furniture Statewide Contract

Ms. Gregg,

I would like to formally submit a protest for the Educational Furniture Contract that is currently out to bid because of the requirement that a manufacturer must offer every item listed in a category. Several colleges have purchased Integra on the last state contract including South Carolina's largest universities – Clemson, Coastal Carolina and the University of South Carolina. Integra specializes in, and excels at, manufacturing lounge seating and tables, and has done so for over 35 years. Our products have a 24/7 LIFETIME warranty and all Integra lounge chairs have a 2000 lb. capacity. The education market sees the value in our ultra-strong and durable furniture, such as our tablet arm with a 300+ lb. capacity, which is why it can be found on college campuses across the country.

In Category 4 – Dormitory/Housing Furniture, Integra offers lounge seating and occasional tables for common areas and dorm rooms. However since we don't offer beds, desks, storage cabinets and shelving, we are not able to submit for this category.

In Category 6 – Healthcare/Infirmary Furniture, Integra offers waiting room furniture. However since we don't have treatment beds, medical cabinets, lockers and storage, we are not able to submit for this category.

In Category 7 – Library/Media Center Furniture, Integra offers collaborative furniture, ottomans, lounge seating and tables. However since we don't have shelving, workstations, display pieces, computer workstations and stack chairs, we are not able to submit for this category.

I ask you to reconsider the requirement of producing every furniture selection listed in the categories. The way this solicitation is written, you are excluding small manufacturers from responding. Integra is a nationally certified women-owned small business, proudly made in the USA, who manufactures beautiful and very durable furniture. You are providing a disservice to the state agencies in South Carolina by not allowing small or specialized manufacturers to participate in this solicitation.

Thank you for your time and consideration of this appeal.

Sincerely,

A handwritten signature in cursive script that reads "Tracey Putnam".

Tracey Putnam
Contracts Administrator
Integra, Inc.

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised July 2017)

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 367, 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.